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IMPERIAL STATUTES

AFFECTING THE

PROVINCE OF ONTARIO;

AND CONSISTING CHIEFLY OF THOSE STATUTES WHICH
RELATE TO THE CONSTITUTION OF THE PROVINCE

AND THE

POLITICAL RIGHTS OF ITS INHABITANTS,

AND SUCH OTHER OF THE IMPERIAL ACTS WHICH HAVE BEEN
HERETOFORE PRINTED WITH THE STATUTES OF THE
LATE PROVINCE OF CANADA AND OF THE
DOMINION, AS AFFECT THIS PROVINCE.

Bound with 'Statutes of the Province of
Canada.' Pt. 1.



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Toronto:

PRINTED BY JOHN NOTMAN,

LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

ANNO DOMINI 1875.

This collection of Imperial Statutes relating to Ontario has been made by G. H. WATSON and G. L. B. FRASER, Esqs., Barristers-at-Law, under the direction of a Committee of the Commissioners for the Consolidation and Revision of the Statutes affecting the Province of Ontario. The index has been prepared by Mr. FRASER.

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5 GEO. 2, c. 7.—1732.

AN ACT for the more easy recovery of debts in His Majesty's Plantations and Colonies in America.

WHEREAS His Majesty's subjects trading to the British plantations in America lie under great difficulties, for want of more easy methods of proving, recovering, and levying of debts due to them, than are now used in some of the said plantations :

And whereas it will tend very much to the retrieving of the credit formerly given by the trading subjects of Great Britain to the natives and inhabitants of the said plantations, and to the advancing of the trade of this kingdom thither, if such inconveniences were remedied.¶

May it therefore please Your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same,

That from and after the twenty-ninth day of September which shall be in the year of our Lord one thousand seven hundred and thirty-two, in any action or suit then depending, or thereafter to be brought in any court of law or equity in any of the said plantations, for or relating to any debt or account, wherein any person residing in Great Britain shall be a party, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing by affidavit or affidavits in writing upon oath, or in case the person making such affidavit be one of the people called Quakers, then upon his or her solemn affirmation, made before any mayor or other chief magistrate of the city, borough or town corporate in Great Britain, where or near to which the person making such affidavit or affirmation shall reside, and certified and transmitted under the common seal of such city, borough or town corporate, or the seal of the office of such mayor, or other chief magistrate, which oath and solemn affirmation every such mayor and chief magistrate shall be and is hereby authorized and empowered to administer ; and every affidavit or affirmation so made, certified and transmitted, shall in all such actions and suits be allowed to be of the same force and effect

After Sept. 29, 1732, plantation debts may be proved in England on oath before a chief magistrate.

effect, as if the person or persons making the same upon oath or solemn affirmation as aforesaid, had appeared and sworn or affirmed the matters contained in such affidavit or affirmation *viva voce* in open court, or upon a commission issued for the examination of witnesses, or of any party in such action or suit respectively ; Provided that in every such affidavit and affirmation there shall be expressed the addition of the party making such affidavit or affirmation, and the particular place of his or her abode.

Debts to his Majesty may be proved in the same manner.

2. And be it further enacted by the authority aforesaid, That in all suits now depending, or hereafter to be brought in any court of law or equity by or in behalf of His Majesty, His heirs and successors, in any of the said plantations, for or relating to any debt or account, that His Majesty, His heirs and successors, shall and may prove His and their debts and accounts, and examine His or their witness or witnesses by affidavit or affirmation in like manner as any subject or subjects is or are empowered or may do by this present Act.

Penalty on false oath or affirmation.

3. Provided always, and it is hereby further enacted, That if any person making such affidavit upon oath or solemn affirmation as aforesaid, shall be guilty of falsely and wilfully swearing or affirming any matter or thing in such affidavit or affirmation, which, if the same had been sworn upon an examination in the usual form, would have amounted to wilful and corrupt perjury, every person so offending, being thereof lawfully convicted, shall incur the same penalties and forfeitures as by the laws and statutes of this realm are provided against persons convicted of wilful and corrupt perjury.

(These three secs. are amended by the 15th and 17th secs. of Imp. Act 5 and 6 Wm. 4, c. 62. See post p. 3.)

Lands, houses, negroes, etc., in the plantations liable to satisfy debts.

4. And be it further enacted by the authority aforesaid, That from and after the said twenty-ninth day of September one thousand seven hundred and thirty-two, the houses, lands, negroes, and other hereditaments and real estates, situate or being within any of the said plantations belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands of what nature or kind soever, owing by any such person to His Majesty, or any of his subjects, and shall and may be assets for the satisfaction thereof, in like manner as real estates are by the law of England liable to the satisfaction of debts due by bond or other specialty, and shall be subject to the like remedies, proceedings and process in any court of law or equity, in any of the said plantations respectively, for seizing, extending, selling or disposing of any such houses, lands, negroes and other hereditaments and real estates, towards the satisfaction of such debts, duties, and demands, and in like manner as personal

personal estates in any of the said plantations respectively are seized, extended, sold, or disposed of, for the satisfaction of debts.

(*So much of this Act as relates to negroes is repealed by Imp. Act 37 Geo. 3, c. 19.*)

5 & 6 WM. 4, c. 62.—1835.

AN ACT to repeal an Act of the present Session of Parliament, intituled *An Act for the more effectual abolition of oaths and affirmations taken and made in various Departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits*, and to make other provisions for the abolition of unnecessary oaths.

(*The following seem to be the only sections of this Act which now affect Ontario.*)

15. AND WHEREAS an Act was passed in the fifth year of the reign of His late Majesty King George the Second, intituled, *An Act for the more easy recovery of debts in His Majesty's plantations and colonies in America.*

Declaration substituted for oaths and affidavits required by 5 Geo. 2, c. 7.

And whereas another Act was passed in the fifty-fourth year of the reign of His late Majesty King George the Third, intituled *An Act for the more easy recovery of debts in His Majesty's colony of New South Wales*;

And whereas it is expedient that in future a declaration shall be substituted in lieu of the affidavit on oath authorised and required by the said recited Acts;

Be it therefore enacted, That from and after the commencement of this Act, in any action or suit then depending, or thereafter to be brought or intended to be brought in any court of law or equity within any of the territories, plantations, colonies or dependencies abroad, being within any part of His Majesty's dominions, for or relating to any debt or account wherein any person residing in *Great Britain and Ireland* shall be a party or for or relating to

14 GEO. 3, c. 83—1774.

AN ACT for making more effectual provision for the government of the Province of Quebec in North America.

WHEREAS his Majesty, by his royal proclamation bearing date the seventh day of October, in the third year of his reign, thought fit to declare the provisions which have been made in respect to certain countries, territories and islands in America, ceded to his Majesty by the definite treaty of peace concluded at Paris on the tenth day of February, one thousand seven hundred and sixty-three: And whereas by the arrangements made by the said royal proclamation, a very large extent of country, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left without any provision being made for the administration of civil government therein; and certain parts of the territory of Canada, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such fisheries: May it therefore please your Most Excellent Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same:

1. That all the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the River Saint Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the same latitude directly west, through the lake Champlain, until, in the same latitude, it meets the river Saint Lawrence; from thence up the eastern bank of the said river to the lake Ontario; thence through the lake Ontario, and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of lake Erie, following the said bank, until the same shall be intersected by the northern boundary, granted by the charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said Province, until the said western boundary strike the Ohio; but in case the said

Certain territories belonging to Great Britain annexed to the Province of Quebec.

said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania; and thence, by a right line, to the said north-western angle of the said Province; and thence along the western boundary of the said Province, until it strike the river Ohio; and along the bank of the said river, westward, to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the merchants adventurers of England, trading to Hudson's Bay; and also all such territories, islands, and countries, which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to, and made part and parcel of the Province of Quebec, as created and established by the said royal proclamation of the seventh of October, one thousand seven hundred and sixty-three.

Boundaries of
any other
colonies not to
be affected.

2. Provided always, that nothing herein contained, relative to the boundary of the Province of Quebec, shall in any wise affect the boundaries of any other colony.

Not to make
void other
rights former-
ly granted.

3. Nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter any right, title, or possession, derived under any grant, conveyance, or otherwise howsoever, of or to any lands within the said Province, or the Provinces thereto adjoining; but that the same shall remain and be in force, and have effect, as if this Act had never been made.

Former provi-
sions for the
government of
the Province
to be null and
void after 1st
May, 1775.

4. And whereas the provisions made by the said proclamation, in respect to the civil government of the said Province of Quebec, and the powers and authorities given to the Governor and other civil officers of the said Province, by the grants and commissions issued in consequence thereof, have been found, upon experience, to be inapplicable to the state and circumstances of the said Province, the inhabitants whereof amounted, at the conquest, to above sixty-five thousand persons professing the religion of the church of Rome, and enjoying an established form of constitution and system of laws, by which their persons and property have been protected, governed and ordered, for a long series of years, from the first establishment of the said Province of Canada; be it therefore further enacted by the authority aforesaid, That the said proclamation, as far as the same relates to the said Province of Quebec, and the commission under the authority whereof the government of the said Province is at present administered, and all and every the ordinance and ordinances made by the Governor and Council of Quebec for the time being, relative to the civil government and administration of justice in the said Province, and all commissions to judges

judges and other officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the first day of May, one thousand seven hundred and seventy-five.

5. And, for the more perfect security and ease of the minds of the inhabitants of the said Province, it is hereby declared, That His Majesty's subjects, professing the religion of the church of Rome of and in the said Province of Quebec, may have, hold, and enjoy, the free exercise of the religion of the church of Rome, subject to the King's supremacy, declared and established by an Act, made in the first year of the reign of Queen Elizabeth, over all the dominions and countries which then did, or thereafter should belong, to the Imperial Crown of this realm; and that the clergy of the said church may hold, receive, and enjoy, their accustomed dues and rights, with respect to such persons only as shall profess the said religion.

Inhabitants of Quebec may profess the Roman Catholic religion subject to the King's supremacy as declared by the Act 1st Elizabeth.

6. Provided nevertheless, that it shall be lawful for His Majesty, His heirs or successors, to make such provision out of the rest of the said accustomed dues and rights, for the encouragement of the Protestant religion, and for the maintenance and support of a Protestant clergy within the said Province, as He or they shall, from time to time, think necessary and expedient.

Provision may be made for the support of a Protestant clergy within the Province.

(This does not appear to have been expressly repealed, but is not acted upon, and is perhaps inconsistent with later enactments.)

7. Provided always, that no person, professing the religion of the church of Rome, and residing in the said Province, shall be obliged to take the oath required by the said statute passed in the first year of the reign of Queen Elizabeth, or any other oaths substituted by any other Act in the place thereof; but that every such person who, by the said statute, is required to take the oath therein mentioned, shall be obliged, and is hereby required, to take and subscribe the following oath before the Governor, or such other person in such court of record as His Majesty shall appoint, who are hereby authorized to administer the same; *videlicet*:

No person professing the Roman Catholic religion obliged to take the oath 1st Elizabeth, but to take the following oath.

"I, A. B., do sincerely promise and swear, That I will be faithful, and bear true allegiance to His Majesty King George, and Him will defend to the utmost of my power, against all traitorous conspiracies and attempts whatsoever, which shall be made against His person, crown and dignity; and I will do my utmost endeavor to disclose and make known to His Majesty, His heirs and successors, all treasons, and traitorous conspiracies, and attempts, which I shall know to be against Him, or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation,

“ vation, and renouncing all pardons and dispensations from any power or persons whomsoever to the contrary. So help me God.”

(*See C. S. C., c. 12, s. 3, and Dom. Act 31 Vic., c. 36, s 3.*)

And every such person, who shall neglect or refuse to take the said oath before mentioned, shall incur and be liable to the same penalties, forfeitures, disabilities and incapacities, as he would have incurred and been liable to for neglecting or refusing to take the oath required by the said statute passed in the first year of the reign of Queen Elizabeth.

His Majesty's Canadian subjects (religious orders excepted) may hold their property &c.

In civil matters resort to be had to laws of Canada.

8. His Majesty's Canadian subjects, within the Province of Quebec, the religious orders and communities only excepted, may also hold and enjoy their property and possessions, together with all customs and usages relative thereto, and all other their civil rights, in as large, ample, and beneficial a manner, as if the said proclamation, commissions, ordinances and other Acts and instruments had not been made, and as may consist with their allegiance to His Majesty, and subjection to the Crown and Parliament of Great Britain; and in all matters of controversy, relative to property and civil rights, resort shall be had to the laws of Canada, as the rule for the decision of the same; and all causes that shall hereafter be instituted in any of the courts of justice, to be appointed within and for the said Province, by His Majesty, His heirs and successors, shall, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada, until they shall be varied or altered by any ordinances that shall, from time to time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief, for the time being, by and with the advice and consent of the Legislative Council of the same, to be appointed in manner hereinafter mentioned.

(*But see Prov. Stat. U. C. 32, Geo. 3, c. 1, (Rev. Stat. Ont. c. 38), which repeals this sec. so far as it introduces the law of Canada into U. C. and provides that in U. C. in all matters relative to property and civil rights, resort shall be had to the laws of England.*)

Exception as to lands in free and common socage,

9. Provided always, that nothing in this Act contained shall extend, or be construed to extend, to any lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, His heirs and successors, to be holden in free and common socage.

Owners of lands may alienate the same by will.

10. Provided also that it shall and may be lawful for every person that is owner of any lands, goods, or credits in the said Province, and that has a right to alienate the said lands, goods

goods or credits, in his or her life-time, by deed of sale, gift or otherwise, to devise or bequeath the same at his or her death, by his or her last will and testament, any law, usage or custom, heretofore or now prevailing in the Province, to the contrary hereof in any wise notwithstanding; such will being executed, either according to the laws of Canada, or according to the forms prescribed by the laws of England.

(But see now, the Provincial Statutes in force in this Province on this subject.)

11. And whereas the certainty and lenity of the criminal law of England, and the benefits and advantages resulting from the use of it, have been sensibly felt by the inhabitants, from an experience of more than nine years, during which it has been uniformly administered; be it therefore further enacted by the authority aforesaid, That the same shall continue to be administered, and shall be observed as law in the Province of Quebec, as well in the description and quality of the offence as in the method of prosecution and trial, and the punishments and forfeitures thereby inflicted, to the exclusion of every other rule of criminal law, or mode of proceeding thereon, which did or might prevail in the said Province before the year of our Lord one thousand seven hundred and sixty-four, anything in this Act to the contrary thereof in any respect notwithstanding; subject nevertheless to such alterations and amendments as the Governor, Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of the Legislative Council of the said Province, hereafter to be appointed, shall, from time to time, cause to be made therein, in manner hereinafter directed.

Criminal law of England to be continued in the Province.

(See, as to Ontario, the Act of U. C. 40 G. 3, c. 1, s. 1, (C. S. U. C. c. 94), adopting the Criminal Law of England as it stood on 7th Sept., 1792, subject to any alteration to be made by the Provincial Legislature.)

Sections 12, 13, 14, 15 and 16, related to the constitution and powers of the Legislative Council for the Province, and were repealed by 31 G. 3, c. 31, s. 1.

17. Nothing herein contained shall extend, or be construed to extend, to prevent or hinder His Majesty, His Heirs and Successors, by His or Their letters patent under the great seal of Great Britain, from erecting, constituting, and appointing, such courts of criminal, civil, and ecclesiastical jurisdiction within and for the said Province of Quebec, and appointing, from time to time, the judges and officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper for the circumstances of the said Province.

Nothing herein to prevent His Majesty appointing Courts, etc., and their officers under the great seal.

All acts formerly made for regulating trade, etc., to remain in force within the Province.

18. Provided always, that nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said Province of Quebec, any Act or Acts of the Parliament of Great Britain *heretofore made*, for prohibiting, restraining, or regulating the trade or commerce of His Majesty's colonies and plantations in America; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said colonies and plantations, shall be, and are hereby declared to be in force within the said Province of Quebec, and every part thereof.

(Its seems unlikely that there are any Acts to which this section can apply.)

18 GEO. 3, c. 12—1778.

An Act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain in any of the Colonies, Provinces, and Plantations in North America and the West Indies; and for repealing so much of an Act made in the seventh year of the reign of His present Majesty, as imposes a duty on tea imported from Great Britain into any Colony or Plantation in America, or relates thereto.

Preamble.

WHEREAS taxation by the Parliament of Great Britain for the purpose of raising a revenue in His Majesty's Colonies, Provinces, and Plantations in North America, has been found by experience to occasion great uneasiness and disorders among His Majesty's faithful subjects, who may nevertheless be disposed to acknowledge the justice of contributing to the common defence of the Empire, provided such contribution should be raised under the authority of the General Court, or General Assembly of each respective Colony, Province, or Plantation :

And whereas, in order as well to remove the said uneasinesses, and to quiet the minds of His Majesty's subjects who may be disposed to return to their allegiance, as to restore the peace and welfare of all His Majesty's dominions, it is expedient to declare that the King and Parliament of Great Britain will not impose any duty, tax or assessment, for the purpose of raising a revenue in any of the Colonies, Provinces, or Plantations :

May

May it please Your Majesty that it may be declared and enacted, and it is hereby declared and enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same :

1. That from and after the passing of this Act, the King and Parliament of Great Britain will not impose any duty, tax or assessment whatever, payable in any of His Majesty's Colonies, Provinces and Plantations in North America or the West Indies, except only such duties as it may be expedient to impose for the regulation of commerce; the net produce of such duties to be always paid and applied to and for the use of the Colony, Province, or Plantation, in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective General Courts, or General Assemblies of such Colonies, Provinces, or Plantations are ordinarily paid and applied.

No tax to be imposed on the Colonies by the Parliament of Great Britain.

Except duties for the regulation of trade to be applied for the use of the Colony.

2. That from and after the passing of this Act, so much of an Act made in the seventh year of His present Majesty's reign, intituled, *An Act for granting certain duties in the British Colonies and Plantations in America; for allowing a drawback of the duties of Customs upon the exportation from this Kingdom of coffee and cocoa-nuts of the produce of the said Colonies or Plantations; for discontinuing the drawbacks payable on China earthenware exported to America; and for more effectually preventing the clandestine running of goods in the said Colonies and Plantations*, as imposes a duty on tea imported from Great Britain into any Colony or Plantation in America, or has relation to the said duty, be, and the same is hereby repealed.

7 Geo. 3, c. 46, repealed.

(*This Act is continued by sections 46 and 47 of Imp. Act 31 Geo. 3, c. 31. and section 43 of Imp. Act 3 & 4 Vict. c. 35.*)

IMP. ACT, 31 GEO. 3, c. 31---1791.

An Act to repeal certain parts of an Act, passed in the fourteenth year of His Majesty's reign, intituled, *An Act for making more effectual provision for the government of the Province of Quebec, in North America*; and to make further provision for the government of the said Province.

WHEREAS an Act was passed in the fourteenth year of the reign of His present Majesty, intituled, *An Act for making more effectual provision for the government of the* 14 G. 3, c. 83. Preamble.

the Province of Quebec, in North America: and whereas the said Act is in many respects inapplicable to the present condition and circumstances of the said Province: and whereas, it is expedient and necessary that further provision should now be made for the good government and prosperity thereof:

May it therefore please Your Most Excellent Majesty that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same:

(Section 1 repealed so much of Imp. Act 14 Geo. 3, c. 83, as related to the appointment and jurisdiction of a Council for the Province of Quebec.)

(Sections 2 to 32, both inclusive, related to the constitution of a Legislative Council and Legislative Assembly in Upper and Lower Canada respectively, and were repealed by the Union Act (3 & 4 Vict. c. 35, sec. 2.)—Section 33 merely continues laws then in force until otherwise ordered by the Legislature of either Province respectively.)

(Section 34 made the Governor &c., and the Executive Council, in either Province, a Provincial Court of Appeals. But other provision has been made in this Province under the power given to the Legislature by that section.)

(Section 35 continued in force Section 6 of Imp. Act 14 Geo. 3, c. 83, and provided for the application of tithes collected from lands and possessions occupied by Protestants to the support of a Protestant clergy. It also provided that this section might be repealed or varied by the Provincial Legislatures; and tithes were abolished in U. C. by 2 Geo. 4, c. 32.)

(Sections 36, 37, 38, 39, 40, 41, related to the reservation of lands for the support of a Protestant clergy, and the endowment of rectories. The Imperial Act 3 & 4 Vict. c. 78, s. 11, repealed so much of this Act as related to any such reservation thereafter to be made: and the Prov. Act 14 & 15 Vict. c. 175, (Con. Stat. of Canada, c. 74,) repealed ss. 38, 39 and 40 of this Act relating to the establishment of rectories, saving past rights if found valid, and directing how the presentation to any rectory which is found to have been legally established, shall thereafter be made. The said Provincial Act was passed under the authority given by s. 41 of the Act now under consideration.)

Provisions respecting the allotment of lands for the support of a Protestant clergy, &c., may be varied or repealed by

41. The several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant clergy within the said Provinces, and also respecting the constituting, erecting, and endowing parsonages or rectories within the said provinces, and also respecting

ing the presentation of incumbents or ministers to the same, and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose, contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by His Majesty, His Heirs or Successors, under the restriction hereinafter provided.

the Legislative
Council and
Assembly.

(Section 42, required that certain Bills respecting ecclesiastical rights and waste lands of the Crown should be reserved and laid before Parliament before being assented to, but see the Union Act (3 & 4 Vict. c. 35, s. 42), Imp. Act 17 & 18 Vict. c. 118, s. 6, and the B. N. A. Act, 1867, ss. 55, 56 and 90.)

43. All lands which shall be hereafter granted within the said Province of Upper Canada, shall be granted in free and common socage, in like manner as lands are now holden in free and common socage, in that part of Great Britain called England; and in every case where lands shall be hereafter granted within the said Province of Lower Canada, and where the grantee thereof shall desire the same to be granted in free and common socage, the same shall be so granted; but subject nevertheless to such alterations, with respect to the nature and consequences of such tenure of free and common socage, as may be established by any law or laws which may be made by His Majesty, His Heirs or Successors, by and with the advice and consent of the Legislative Council and Assembly of the Province.

Lands in Up-
per Canada to
be granted in
free and com-
mon socage,
and also in
Lower Canada,
if desired.

(Section 44 provided that any person holding lands in U. C. by virtue of a certificate of occupation from the Governor and Council of the Province of Quebec upon surrendering the same should receive a fresh grant thereof to be holden in free and common socage, but it is improbable that any cases now remain to which this and the following section apply.)

(Section 45 provided that such surrender and grant should be made subject to any interest in such land which any one other than the person surrendering should have at the time of surrender, and should not affect such interest.)

(Secs. 46 and 47 referred to the Imp. Act 18 Geo. 3, c. 12, [See ante p. 10], and were to the same effect and in the same terms as Section 43 of the Union Act [3 & 4 Vict. c. 35.])

(Secs. 48, 49 and 50 were mere temporary provisions relating to the coming into force of the Act and matters preliminary thereto.)

1 & 2 GEO. 4, c. 66—1821.

Courts of Judicature in Upper Canada to take cognizance of causes in Indian territories.

(The only sections of this Act affecting Ontario appear to be Sections 6 and 7.)

6. And be it further enacted, that from and after the passing of this Act, the Courts of Judicature now existing, or which may be hereafter established in the Province of Upper Canada shall have the same civil jurisdiction, power and authority, as well in the cognizance of suits, as in the issuing of process mesne and final, and in all other respects whatsoever within the said Indian Territories and other parts of America, not within the limits of either of the Provinces of Lower or Upper Canada, or of any civil government of the United States, as the said Courts have or are invested with within the limits of the said Provinces of Lower or Upper Canada respectively; and that all and every contract, agreement, debt, liability and demand whatsoever, made, entered into, incurred or arising within the said Indian Territories and other parts of America, and all and every wrong and injury to the person or to property, real or personal, committed or done within the same shall be and be deemed to be of the same nature and cognizable by the same Courts, Magistrates or Justices of the Peace and be tried in the same manner and subject to the same consequences, in all respects, as if the same had been made, entered into, incurred, arisen, committed or done within the said Province or Upper Canada, anything in any Act or Acts of Parliament or grant or charter to the contrary notwithstanding: Provided always, that all such suits and actions relating to lands or to any claim in respect of land, not being within the Province of Upper Canada, shall be decided according to the laws of that part of the United Kingdom called England, and shall not be subject to or affected by any local acts, statutes or laws of the Legislature of Upper Canada.

Actions relating to lands not within Upper Canada decided according to laws of England.

Proceedings of Courts issued as heretofore.

7. And be it further enacted, That all process, writs, orders, judgments, decrees and acts whatsoever, to be issued, made, delivered, given and done by or under the authority of the said Courts, or either of them, shall have the same force, authority and effect within the said Indian Territory and other parts of America, as aforesaid, as the same now have within the said Province of Upper Canada.

1 WM. 4, c. 4—1830.

An Act to render valid acts done by the Governor of any of His Majesty's Plantations after the expiration of his Commission by the demise of His late Majesty, and to extend the period within which the Patents of Governors of Colonies shall on any future demise of the Crown become vacant, and to provide for the longer duration of the Patents of Governors after the demise of the Crown.

(Section 1 provided that all powers vested in Governors of Colonies, &c., by Patent or Commission of Geo. 4 should continue in force until new Patents should be issued and made known in such Colonies, and is effete.)

2. And be it further enacted, That no patent, commission, warrant or other authority for the exercise of any office or employment, civil or military, within any of His Majesty's plantations or possessions abroad, determinable at the pleasure of His Majesty, or of any of His Majesty's Heirs and Successors shall, by reason of any future demise of the Crown be vacated or become void until the expiration of eighteen calendar months next after any such demise of the Crown as aforesaid.

Extending the period at which patents, &c., for offices in the colonies shall remain in force at any future demise of the Crown.

3 & 4 VICT., c. 35—1840.

An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.

(All the sections of this Act have been repealed or superseded by subsequent Imperial or Provincial legislation, or have become effete, except section 43.)

43. And whereas, by an Act passed in the eighteenth year of the reign of His late Majesty King George the Third, intitled, *An Act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain in any of the Colonies, Provinces and Plantations in North America and the*

Colonial taxation, 18 G. 3, c. 12.

the West Indies ; and for repealing so much of an Act made in the seventh year of the reign of His present Majesty as imposes a Duty on Tea imported from Great Britain into any Colony or Plantation in America, or relating thereto, it was declared, that “the King and Parliament of Great Britain would not impose any duty, tax or assessment, whatever, payable in any of His Majesty’s Colonies, Provinces and Plantations in North America or the West Indies, except only such duties as it might be expedient to impose for the regulation of commerce, the net produce of such duties to be always paid and applied to and for the use of the Colony, Province or Plantation in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective General Courts or General Assemblies of such Colonies, Provinces or Plantations were ordinarily paid and applied :”

And whereas it is necessary, for the general benefit of the Empire, that such power of regulation of Commerce should continue to be exercised by Her Majesty and the Parliament of the United Kingdom of *Great Britain and Ireland*, subject nevertheless to the conditions hereinbefore recited with respect to the application of any duties which may be imposed for that purpose :

Be it therefore enacted, that nothing in this Act contained shall prevent or affect the execution of any law which hath been or shall be made in the Parliament of the said United Kingdom for establishing regulations and prohibitions, or for the imposing, levying or collecting duties for the regulation of navigation, or for the regulation of the commerce between the Province of *Canada* and any other part of Her Majesty’s dominions, or between the said Province of *Canada*, or any part thereof, and any foreign country or State, or for appointing and directing the payment of drawbacks of such duties so imposed, or to give to Her Majesty any power or authority, by and with the advice and consent of such Legislative Council and Assembly of the said Province of *Canada*, to vary or repeal any such law or laws, or any part thereof, or in any manner to prevent or obstruct the execution thereof ; Provided always, that the net produce of all duties which shall be so imposed shall at all times hereafter be applied to and for the use of the said Province of *Canada*, and (except as hereinafter provided) in such manner only as shall be directed by any law or laws which may be made by Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of such Province.

6 & 7 VIC. c. 34---1843.

An Act for the Better Apprehension of Certain Offenders.

WHEREAS it is expedient to make more effectual provision for the apprehension and trial of offenders against the laws who may be in other parts of Her Majesty's Dominions than those in which their offences were committed : Offenders in the Colonies escaping into the United Kingdom may be there apprehended.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same ;

That from and after the passing of this Act, if any person charged with having committed any offence such as is hereinafter mentioned against the laws of any part of Her Majesty's Dominions, not being part of the United Kingdom of *Great Britain* and *Ireland*, and against whom a warrant shall have been issued for such offence by any person having lawful authority to issue the same within that part of Her Majesty's Dominions where such offence shall have been committed, shall be in any place within the said United Kingdom, it shall be lawful, in *Great Britain*, for one of Her Majesty's principal Secretaries of State, and in *Ireland* for the Chief Secretary of the Lord Lieutenant of *Ireland*, to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, and also to all constables and other peace officers in that part of the United Kingdom where the said warrant shall be so endorsed, to execute the said warrant, by apprehending the person against whom such warrant is directed, and to convey the said person before a Justice of the Peace for the county or other jurisdiction in which the supposed offender shall be apprehended, or in *Scotland* either before such Justice of the Peace or before the Sheriff Depute or Substitute.

2. And to remedy the like failure of justice by the escape of persons charged with having committed offences into those parts of Her Majesty's Dominions which do not form part of the said United Kingdom ; For apprehension of offenders escaping to the Colonies.

Be it enacted, That from and after the passing of this Act, if any person charged with having committed any offence such as is hereinafter mentioned in any part of Her Majesty's Dominions, whether or not within the said United Kingdom, and against whom a warrant shall be issued by any person or persons having lawful authority to

to issue the same, shall be in any other part of Her Majesty's Dominions not forming part of the said United Kingdom, it shall be lawful for the Chief Justice or any other Judge of Her Majesty's Superior Court of law within that other part of Her Majesty's Dominions where such person shall be, to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, and also to all persons to whom such warrant was originally directed, and also to all peace officers of the place where the warrant shall be so endorsed, to execute the same within the jurisdiction of the person by whom it shall be so endorsed, by apprehending the person against whom such warrant is directed, and to convey him before a Magistrate or other person having authority to examine and commit offenders for trial in that part of Her Majesty's Dominions.

Offender may be committed to gaol until he can be sent back to the place where the offence was committed.

3. And be it enacted, That it shall be lawful for any person duly authorized to examine and commit offenders for trial before whom any such supposed offender shall be brought as aforesaid, upon such evidence of criminality as would justify his committal if the offence had been committed in that part of Her Majesty's Dominions, to commit such supposed offender to prison, there to remain until he can be sent back, in manner hereinafter mentioned, to that part of Her Majesty's Dominions in which he is charged with having committed such offence; and immediately upon the committal of such person, information thereof in writing, under the hand of the committing Magistrate, accompanied by a copy of the said warrant, shall be given, in *Great Britain*, to one of Her Majesty's principal Secretaries of State, and in *Ireland*, to the Chief Secretary of the Lord Lieutenant, and in any other part of Her Majesty's Dominions to the Governor or acting Governor.

Information of committal to be given.

Copies of depositions may be given in evidence.

4. Provided always, and be it enacted, That in every such case copies of the depositions upon which the original warrant was granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

Offenders apprehended to be sent to the place where the offence was committed.

5. And be it enacted, That it shall be lawful, in *Great Britain*, for any one of Her Majesty's principal Secretaries of State, and in *Ireland*, for the Chief Secretary of the Lord Lieutenant, and in any other part of Her Majesty's Dominions for the Governor or acting Governor, by warrant under his hand and seal to order any person who shall have been so apprehended and committed to gaol, to be delivered into the custody of some person or persons, to be named in the said warrant for the purpose of being conveyed into that part

part of Her Majesty's Dominions in which he is charged with having committed the offence, and being delivered into the custody of the proper authorities there, to be dealt with in due course of law as if he had been there apprehended, and to order that the person so committed to gaol be so conveyed accordingly; and if the said person, after he shall have been so apprehended, shall escape out of any custody to which he shall have been committed as aforesaid, it shall be lawful to retake such person, in the same manner as any person accused of any crime against the laws of that part of Her Majesty's Dominions may be retaken upon an escape.

6. And be it enacted, That where any person who shall have been committed to gaol under this Act shall not be conveyed out of that part of Her Majesty's Dominions in which he shall have been so committed to gaol within two calendar months after such committal, over and above the time actually required to convey the prisoner from the gaol to which he was committed by the readiest way out of that part of Her Majesty's Dominions, it shall be lawful for any of Her Majesty's Judges in that part of Her Majesty's Dominions in which such supposed offender shall be in custody, upon application made to him or them, by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to one of Her Majesty's principal Secretaries of State in *Great Britain*, or in *Ireland* to the Chief Secretary of the Lord Lieutenant of *Ireland*, or to the Governor or acting Governor in any other part of Her Majesty's Dominions, to order the person so committed to be discharged out of custody, unless sufficient cause be shown to such Judge or Judges why such discharge ought not to be ordered.

If not sent within two months after committal may apply to be discharged.

7. And be it enacted, That in case any person apprehended under this Act shall not be indicted for the offence for which he shall have been so apprehended within the period of six calendar months after his arrival in that part of Her Majesty's Dominions in which he is charged to have committed the offence, or if upon his trial, he shall be acquitted, it shall be lawful, in *Great Britain*, for one of Her Majesty's Principal Secretaries of State, and in *Ireland*, for the Chief Secretary of the Lord Lieutenant of *Ireland*, and for the Governor or acting Governor in any other part of Her Majesty's Dominions, if he shall think fit, upon the request of the person so apprehended, to cause such person to be sent back, free of cost to such person, and with as little delay as possible, to that part of Her Majesty's Dominions in which he shall have been so apprehended.

Persons apprehended if not indicted within six months, or if not convicted, may be sent back.

8. And be it enacted, That the Court before which any person apprehended under this Act shall be prosecuted or tried within the said United Kingdom may order, if it shall think fit,

Providing for expense of removal of offenders to the United Kingdom.

fit, that the expenses of apprehending and removing the prisoner from any part of Her Majesty's Dominions not within the said United Kingdom to any place within the said United Kingdom, shall be repaid to the person defraying the same, by the Treasurer of the County or other Jurisdiction in *England or Ireland*, or by the Sheriff Depute or Substitute of the County in *Scotland*, in which the offence is charged to have been committed, the amount of such expenses being previously ascertained by an account thereof, verified by production of proper vouchers before two Justices of the Peace of such County or other Jurisdiction, which last mentioned Justices shall examine into the correctness of the said account, and shall allow the same or such part thereof as shall to them appear just and reasonable, under their hands and seals; and every Treasurer or Sheriff Depute or Substitute, who shall pay the amount so ascertained, shall be allowed such payment in his accounts respecting the business of such County or other Jurisdiction.

Proof of the signature of the person issuing the original warrant.

9. Provided always, and be it enacted, that it shall not be lawful for any person to endorse his name on any such warrant, for the purpose of authorizing the apprehension of any person under this Act, until it shall have been proved to him, upon oath or by affidavit, that the seal or signature upon the same is the seal or signature of the person having lawful authority to issue such warrant whose seal or signature the same purports to be.

Warrant not to be endorsed except in cases of treason and felony, &c.

10. Provided also, and be it enacted, That it shall not be lawful for any person to endorse his name upon any such warrant for the purpose of authorizing the apprehension of any person under this Act, unless it shall appear upon the face of the said warrant that the offence which the person for whose apprehension the said warrant has been issued is charged to have committed is such that, if committed within that part of Her Majesty's Dominions where the warrant is so endorsed it would have amounted in law to a treason, or some felony, *such as the Justices of the Peace in General or Quarter Sessions assembled have not authority to try in England under the provisions of an Act passed in the sixth year of the reign of Her Majesty, intituled "An Act to define the jurisdiction of Justices in General and Quarter Sessions of the Peace,"* or unless the depositions appear sufficient to warrant the committal of such person for trial.

(*Imp. Act 16 & 17 Vict. c. 118, provided that this section should thereafter be read and construed as if the words from "such" in the tenth line to "Peace" in the fourteenth line inclusive, had been omitted therein.*)

Section 11 provided that this Act might be amended, &c., by any Act of that session.)

6 & 7 VICT., c. 94—1843.

An Act to remove doubts as to the exercise of Power and Jurisdiction by Her Majesty within divers countries and places out of Her Majesty's Dominions, and to render the same more effectual.

WHEREAS by treaty, capitulation, grant, usage, sufferance and other lawful means, Her Majesty hath power and jurisdiction within divers countries and places out of Her Majesty's Dominions;

And whereas doubts have arisen how far the exercise of such power and jurisdiction is controlled by, and dependent on the laws and customs of this Realm, and it is expedient that such doubts should be removed;

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same;

1. That it is and shall be lawful for Her Majesty to hold, exercise and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's Dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

The power acquired by Her Majesty in countries out of Her dominions shall be held on the same terms as Her Majesty's authority in the Crown Colonies.

2. And be it enacted, That every act, matter and thing which may at any time be done, in pursuance of any such power or jurisdiction of Her Majesty, in any country or place out of Her Majesty's Dominions, shall in all courts ecclesiastical and temporal and elsewhere within Her Majesty's Dominions, be and be deemed and adjudged to be, in all cases and to all intents and purposes whatsoever, as valid and effectual as though the same had been done according to the local law then in force within such country or place.

Acts done in pursuance of such power to be of the same effect as if done under local laws

3. And be it enacted, That if in any suit or other proceedings, whether civil or criminal, in any court ecclesiastical or temporal within Her Majesty's Dominions, any issue or question of law or of fact shall arise for the due determination whereof it shall, in the opinion of the judge or judges of such court, be necessary to produce evidence of the existence of any such power or jurisdiction as aforesaid or of the extent thereof, it shall be lawful for the judge or judges of any such court, and he or they are hereby authorized to transmit, under his or their hand and seal or hands and seals, to one

Courts authorised to procure evidence or such power by application to Secretary of State.

of

of Her Majesty's principal secretaries of state, questions by him or them properly framed respecting such of the matters aforesaid as it may be necessary to ascertain in order to the due determination of any such issue or question aforesaid; and such secretary of state is hereby empowered and required, within a reasonable time in that behalf, to cause proper and sufficient answers to be returned to all such questions, and to be directed to the said judge or judges, or their successors; and such answers shall, upon production thereof, be final and conclusive evidence, in any such suit or other proceedings, of the several matters therein contained and required to be ascertained thereby.

Power to send persons charged with crimes for trial to a British Colony.

4. And whereas it may in certain cases be expedient that crimes and offences committed within such countries or places as aforesaid, should be enquired of, tried, determined and punished within Her Majesty's Dominions;

Be it enacted, That it shall and may be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause any person charged with the commission of any crime or offence, the cognizance whereof may at any time appertain to any judge, magistrate or other officer of Her Majesty within any such country or place as aforesaid, to be sent for trial to any British Colony which Her Majesty may, by any Order or Orders in Council, from time to time, appoint in that behalf; and upon the arrival of such person within such Colony it shall and may be lawful for the Supreme Court exercising criminal jurisdiction within the same, to cause such person to be kept in safe and proper custody, and, so soon as conveniently may be, to enquire of, try and determine such crime or offence, and upon the conviction of the person so charged as aforesaid, to correct and punish him according to the laws in force in that behalf within such Colony, in the same manner as if the said crime or offence had been committed within the jurisdiction of such Supreme Court;

Before any such person shall be sent to any Colony for trial he may tender any material evidence that he would be unable to produce on trial and which shall be taken down and transmitted.

Provided always that before any such person shall be sent for trial to any such Colony as aforesaid, it shall be lawful for him to tender for examination to the judge, magistrate or other officer of Her Majesty, to whom the cognizance of the crime or offence with which he is charged may appertain within the country or place where the same may be alleged to have been committed, any competent witness or witnesses, the evidence of whom he may deem material for his defence, and whom he may allege himself to be unable to produce at his trial in the said Colony, and the said judge, magistrate or other officer shall thereupon proceed in the examination and cross-examination of such witness or witnesses in the same manner as though the same had been tendered at a trial before such judge, magistrate, or other officer, and

and shall cause the evidence so taken to be reduced into writing, and shall transmit a copy of such evidence to the Supreme Court before which the trial of such person is to take place, together with a certificate under his hand and seal of the correctness of such copy; and thereupon it shall be lawful for the said Supreme Court, and it is hereby required to allow so much of the evidence so taken as aforesaid, as would have been admissible according to the law and practice of the said Supreme Court, had the said witness or witnesses been produced and examined at the trial before the said Court, to be read and received as legal evidence at such trial;

Provided also, that if it shall be made to appear at such trial, that the laws by which the person charged with any criminal act would have been tried had his trial taken place before a judge, magistrate, or other officer of Her Majesty in the country or place in which such act may be alleged to have been committed, vary from or are inconsistent with the laws in force within such colony in respect either of the criminality of the Act charged or of the nature or degree of the alleged crime or offence, or of the punishments to be awarded for the same; such Supreme Court is hereby empowered and required to admit and give effect to the laws by which such person would have been so tried as aforesaid, so far as, but not further or otherwise, than the same relate to the criminality of such act, or to the nature or degree of such crime or offence, or to the punishment thereof;

In case the laws of the place in which the act was committed vary from those of the Colony, Courts may give effect to them.

Provided also, that nothing herein contained shall be construed to alter or repeal any law, statute or usage by virtue of which any crime or offence committed out of Her Majesty's Dominions might at the time of the passing of this Act be inquired of, tried, determined and punished within Her Majesty's Dominions, or any part thereof, but the same shall remain in full force and effect, anything herein contained to the contrary notwithstanding.

Nothing herein to alter any law respecting crimes committed out of Her Majesty's Dominions.

5. And whereas it may likewise, in certain cases, be expedient that the sentences passed within such countries and places as aforesaid at the trial of crimes and offences within the same be carried into effect within Her Majesty's Dominions;

Power to send convicts for execution or imprisonment to a British Colony.

Be it enacted, That if any offender shall have been sentenced to suffer death or imprisonment, for or in respect of any crime or offence of which such offender shall have been lawfully convicted before any judge, magistrate or other officer of Her Majesty within any such country or place as aforesaid, it shall be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause such offender to be sent to any British Colony

Colony which Her Majesty may by any order or orders in council from time to time appoint in that behalf, in order that the sentence so passed such offender may be carried into effect within the same; and the magistrates, gaolers, and other officers, to whom it may appertain to give effect to any sentence passed by the Supreme Court exercising criminal jurisdiction within such Colony, are hereby empowered and required to do all acts and things necessary to carry into effect the sentence so passed upon such offender, in the same manner as though the same had been passed by such Supreme Court.

(Section 6 provided for transportation of such offenders, but this punishment is now abolished by Imp. Acts 20 & 21 Vict., c. 3, & 32 Vict., c. 10, sec. 3.)

Limitation of
Actions.

7. And be it enacted, That if any suit or action shall be brought in any court within Her Majesty's Dominions against any person or persons for anything done in pursuance of any such power or jurisdiction of Her Majesty as aforesaid, or of this Act, then and in every such case such action or suit shall be commenced or prosecuted within six months after the fact committed, and not afterwards, except where the cause of action shall have arisen out of Her Majesty's Dominions, and then within six months after the plaintiff or plaintiffs and defendant or defendants shall have been within the jurisdiction of the court in which the same may be brought; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen out of Her Majesty's Dominions; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any justice of the peace for acts done in the execution of his office by an Act passed in the twenty-fourth year of the reign of King George the Second, intituled, *An Act for rendering Justices of the Peace more safe in the execution of their office, and for indemnifying constables and others acting in obedience to the warrants*; and the defendant or defendants in every such action or suit may plead the general issue, and give the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in the execution of any such power or jurisdiction of Her Majesty as aforesaid, or of this Act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than the same ought to have been brought or laid in as aforesaid, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any action after the defendant or defendants shall have appeared, or if a verdict

verdict shall pass against the plaintiff or plaintiffs, or, if upon demurrer, judgment shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.

(Section 8 does not apply to this Province.)

(Section 9 provided that this Act might be altered, etc., by any Act passed in that Session.)

(28 & 29 Vict., c. 116, provides that, in the above Act, the term *British Colony* shall include, and be construed to include, any of Her Majesty's possessions out of the United Kingdom.)

10 & 11 VICT., c. 95—1847.

An Act to Amend the law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.

WHEREAS by an Act passed in the session of Parliament holden in fifth and sixth years of Her present Majesty, intituled, *An Act to amend the Law of Copyright*, it is, amongst other things, enacted, that it shall not be lawful for any person not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the *British Dominions*, for sale or hire, any printed book, first composed, or written, or printed, or published, in any part of the United Kingdom wherein there shall be copyright, and reprinted in any country or place whatsoever out of the *British Dominions*.

And whereas, by an Act passed in the session of Parliament holden in the eight and ninth years of the reign of Her present Majesty, intituled, *An Act to regulate the Trade of the British Possessions abroad* books wherein the copyright is subsisting, first composed, or written, or printed in the United Kingdom, and printed or reprinted in any other country are absolutely prohibited to be imported into the *British Possessions abroad*:

And whereas, by the said last recited Act it is enacted, that all laws, by-laws, usages, or customs in practice or endeavoured

voured or pretended to be in force or practice in any of the *British Possessions in America*, which are in any wise repugnant to the said Act or to any Act of Parliament made or to be made in the United Kingdom, so far as such Act shall relate to and mention the said Possessions, are and shall be null and void to all intents and purposes whatsoever ;

Her Majesty may suspend in certain cases the prohibition against the admission of pirated books into the Colonies in certain cases.

Now be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, That in case the Legislature or proper Legislative authorities in any *British Possession* shall be disposed to make due provision for securing or protecting the rights of *British* authors in such Possessions, and shall pass an Act or make an Ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to Her Majesty, and in case Her Majesty shall be of opinion that such Act or Ordinance is sufficient for the purpose of securing to *British* authors reasonable protection within such Possession, it shall be lawful for Her Majesty, if she think fit so to do, to express Her Royal approval of such Act or Ordinance, and thereupon to issue an Order in Council declaring that so long as the provisions of such Act or Ordinance continue in force within such Colony the prohibitions contained in the aforesaid Acts, and hereinbefore recited, and any prohibitions contained in the said Acts or in any other Acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed or published in the United Kingdom, and entitled to copyright therein, shall be suspended, so far as regards such Colony ; and thereupon such Act or Ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council, anything in the said last recited Act or in any other Act to the contrary notwithstanding.

Orders in Council to be published in Gazette and laid before Parliament.

2. And be it enacted, that every such Order in Council shall, within one week after the issuing thereof, be published in the *London Gazette* and that a copy thereof, and of every such Colonial Act or Ordinance so approved as aforesaid by Her Majesty, shall be laid before both Houses of Parliament within six weeks after the issuing of such Order, if Parliament be then sitting, or if Parliament be not then sitting, then within six weeks after the opening of the next session of Parliament.

(Section 3 provided that this Act might be amended, &c., by any Act of that session.)

(See *Imp. Act*, 38 & 39 Vict., c. 53, post.)

12 & 13 VICT. c. 96.—1849.

An Act to provide for the prosecution and trial in Her Majesty's Colonies of offences committed within the jurisdiction of the Admiralty.

WHEREAS by an Act passed in the eleventh year of the reign of King William the Third, intituled, *An Act for the more effectual suppression of Piracy*, it is enacted That all piracies, felonies and robberies committed on the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be examined, enquired of, tried, heard, and determined, and adjudged, in any place at sea or upon the land in any of His Majesty's islands, plantations, colonies, dominions, forts, or factories to be appointed for that purpose by the King's commission in the manner therein directed, and according to the civil law, and the method and rules of the Admiralty: 10 & 11 W. 3, c. 7.

And whereas, by an Act passed in the forty-sixth year of the reign of King George the Third, intituled, *An Act for the speedy trial of offences committed in distant parts upon the sea*, it is enacted, That all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be enquired of, tried, heard, determined and adjudged, according to the common course of the laws of this Realm used for offences committed upon the land within this Realm and not otherwise, in any of His Majesty's islands, plantations, colonies, dominions, forts or factories, under and by virtue of the King's commission or commissions under the Great Seal of *Great Britain*, to be directed to commissioners in the manner and with the powers and authorities therein provided: 46 G. 3, c. 54

And whereas, it is expedient to make further and better provision for the apprehension, custody, and trial in Her Majesty's islands, plantations, colonies, dominions, forts and factories of persons charged with the commission of such offences upon the sea, or in any such haven, river, creek, or place as aforesaid:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person within any Colony shall be charged with the commis- All persons charged in any Colony with offences committed on the sea to be dealt with in the same manner
sion

as if the offences had been committed on waters in the local jurisdiction of the Courts of the Colony.

sion of any treason, piracy, felony, robbery, murder, conspiracy or other offence of what nature or kind soever, committed upon the sea or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea, or in any such haven, river, creek or place shall be brought for trial to any Colony, then and in every such case all magistrates, justices of the peace, public prosecutors, juries, judges, courts, public officers and other persons in such Colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for, and auxiliary to, and consequent upon, the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such Colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same upon any waters situate within the limits of any such Colony, and within the limits of the local jurisdiction of the courts of criminal justice of such Colony.

Persons convicted of such offences shall suffer the like punishment as in England,

2. Provided always, and be it enacted, That if any person shall be convicted before any such court of any such offence, such person so convicted shall be subject and liable to, and shall suffer all such and the same pains, penalties and forfeitures as by any law or laws now in force persons convicted of the same respectively would be subject and liable to in case such offence had been committed, and were enquired of, tried, heard, determined, and adjudged, in England, any law, statute or usage to the contrary notwithstanding.

Provision for the trial of murder and manslaughter where the death only happens in the Colony or upon the sea.

3. And be it enacted, That where any person shall die in any Colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea or in any haven, river, creek or place where the Admiral or Admirals have power, authority, or jurisdiction, or at any place out of such Colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter or of being accessory before the fact to murder or after the fact to murder or manslaughter, may be dealt with, enquired of, tried, determined and punished in such Colony in the same manner in all respects as if such offence had been wholly committed in that Colony; and that if any person in any Colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned or otherwise hurt, shall have died of such stroke, poisoning or hurt, upon the sea, or in any haven, river, creek or place where

where the Admiral or Admirals have power, authority or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the Sea.

Section 4 relates to New South Wales and Van Dieman's Land only.

5. And be it enacted, That for the purposes of this Act the word, "Colony," shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except any island within the United Kingdom and the Islands of *Man, Guernsey, Jersey, Alderney, and Sark*, and the Islands adjacent thereto respectively, and except also all such parts and places as are under the government of the *East India Company*; and the word, "Governor," shall mean the officer for the time being administering the government of any Colony.

Interpretation
of terms.

(Section 6 provided that this Act might be amended, &c., by any Act of that session.)

(See Imperial Act 37 & 38 Vict. Cap. 27, by which are regulated the sentences to be imposed by Colonial Courts where jurisdiction to try is conferred by Imperial Acts.)

14 & 15 VICT., c. 99---1851.

An Act to amend the Law of Evidence.

(The following is the only section of this Act affecting Ontario.)

11. Every document which by any law now in force, or hereafter to be in force, is or shall be admissible in evidence of any particular in any court of justice in *England*, or *Wales*, or *Ireland*, without proof of the seal, or stamp, or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent, and for the same purposes in any court of justice of any of the British Colonies, or before any person having in any of such Colonies by law, or by consent of parties, authority to hear, receive, and examine evidence, without proof of the seal, or stamp, or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

Documents
admissible
without proof
of seal, &c. in
England, &c.,
equally admis-
sible in the
Colonies.

17 & 18 VICT. c. 104—1854.

An Act to Amend and Consolidate the Acts relating to Merchant Shipping.

WHEREAS it is expedient to amend and consolidate the Acts relating to Merchant Shipping;

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short Title of Act.

1. This Act may be cited for all purposes as "The Merchant Shipping Act, 1854."

Interpretation of certain Terms in this Act.

2. In the construction and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings hereinafter assigned to them; that is to say,

"Her Majesty's Dominions" shall mean Her Majesty's Dominions strictly so called, and all Territories under the Government of the *East India Company*, and all other Territories, (if any), governed by any charter or licence from the Crown or Parliament of the United Kingdom: "The United Kingdom" shall mean *Great Britain and Ireland*:

"*British Possession*" shall mean any Colony, Plantation, Island, Territory, or Settlement within Her Majesty's Dominions, and not within the "United Kingdom:"

"The Treasury" shall mean the Commissioners of Her Majesty's Treasury:

"The Admiralty" shall mean the Lord High Admiral or the Commissioners for executing his office:

"The Board of Trade" shall mean the Lords of the Committee of Privy Council appointed for the consideration of matters relating to Trade and Foreign Plantations:

"The *Trinity House*" shall mean the Master, Wardens, and Assistants of the Guild. Fraternity, or Brotherhood of the Most Glorious and Undivided *Trinity* and of *St. Clement*, in the Parish of *Deptford Strond*, in the County of *Kent*, commonly called the Corporation of the *Trinity House of Deptford Strond*:

"The

- “The Port of *Dublin* Corporation” shall mean the Corporation for preserving and improving the Port of *Dublin* :
- “Consular Officer” shall include Consul General, Consul and Vice Consul, and any person for the time being discharging the duties of Consul General, Consul or Vice Consul :
- “Receiver” shall mean any person appointed in pursuance of this Act receiver of wreck :
- “Pilotage Authority” shall include all bodies and persons authorized to appoint or license pilots, or to fix or alter rates of pilotage, or to exercise any jurisdiction in respect of pilotage :
- “Pilot” shall mean any person not belonging to a ship who has the conduct thereof :
- “Qualified Pilot” shall mean any person duly licensed by any pilotage authority to conduct ships to which he does not belong :
- “Master” shall include every person (except a pilot) having command or charge of any ship :
- “Seaman” shall include every person (except masters, pilots, and apprentices duly indentured and registered,) employed or engaged in any capacity on board any ship :
- “Salvor” shall, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, mean the person in command of such ship :
- “Person” shall include body corporate :
- “Ship” shall include every description of vessel used in navigation not propelled by oars :
- “Foreign-going Ship” shall include every ship employed in trading or going between some place or places in the United Kingdom, and some place or places situate beyond the following limits ; that is to say, the coasts of the United Kingdom, the Islands of *Guernsey*, *Jersey*, *Sark*, *Alderney* and *Man*, and the Continent of *Europe*, between the river *Elbe* and *Brest* inclusive :
- “Home-trade Ship” shall include every ship employed in trading or going within the following limits ; that is to say, the United Kingdom, the Islands of *Guernsey*, *Jersey*, *Sark*, *Alderney*, and *Man*, and the Continent of *Europe* between the river *Elbe* and *Brest* inclusive :
- “Home-trade Passenger Ship” shall mean every home-trade ship employed in carrying passengers :
- “Lighthouses” shall, in addition to the ordinary meaning of the word, include floating and other lights exhibited for the guidance of ships, and “buoys and beacons” shall include all other marks and signs of the sea :
- “Wreck” shall include jetsam, flotsam, bagan, and derelict found in or on the shores of the sea or any tidal water.

3. This Act shall come into operation on the first day of Commence-
ment of Act.
May one thousand eight hundred and fifty-five.

Exemption of
Her Majesty's
Ships.

4. This Act shall not, except as hereinafter specially provided, apply to ships belonging to Her Majesty.

Division of
Act.

5. This Act shall be divided into Eleven Parts :—

The First Part relating to The Board of Trade ; its general Functions :

The Second Part to British Ships ; their Ownership, Measurement, and Registry :

The Third Part to Masters and Seamen :

The Fourth Part to Safety and Prevention of Accidents :

The Fifth Part to Pilotage :

The Sixth Part to Lighthouses :

The Seventh Part to the Mercantile Marine Fund :

The Eighth Part to Wrecks, Casualties, and Salvage :

The Ninth Part to Liability of Shipowners :

The Tenth Part to legal Procedure :

The Eleventh Part to Miscellaneous Matters.

PART I.

THE BOARD OF TRADE : ITS GENERAL FUNCTIONS.

Board of Trade
to be Depart-
ment to super-
intend Mer-
chant Ship-
ping.

6. The board of trade shall be the department to undertake the general superintendence of matters relating to merchant ships and seamen, and shall be authorized to carry into execution the provisions of this Act, and of all other Acts relating to merchant ships and seamen in force for the time being, other than such Acts as relate to the revenue.

Certificates
and Docu-
ments pur-
porting to be
sealed or signed
in a given
manner to be
received in
evidence.

7. All documents whatever purporting to be issued or written by or under the direction of the board of trade, and purporting either to be sealed with the seal of such board, or to be signed by one of the secretaries or assistant secretaries to such board, shall be received in evidence, and shall be deemed to be issued or written by or under the direction of the said board, without further proof, unless the contrary be shown ; and all documents purporting to be certificates issued by the board of trade in pursuance of this Act, and to be sealed with the seal of such board, or to be signed by one of the officers of the marine department of such board, shall be received in evidence, and shall be deemed to be such certificates without further proof, unless the contrary be shown.

Board of Trade
to issue Forms
of Instru-
ments.

8. The board of trade may from time to time prepare and sanction forms of the various books, instruments, and papers required by this Act other than those required by the second part thereof, and may from time to time make such alterations therein as it deems requisite ; and shall, before finally issuing or altering any such form, give such public notice thereof

thereof as it deems necessary in order to prevent inconvenience; and shall cause every such form to be sealed with such seal as aforesaid, or marked with some other distinguishing mark, and to be supplied at the custom houses and shipping offices of the United Kingdom free of charge, or at such moderate prices as it may from time to time fix, or may license any persons to print and sell the same; and every such book, instrument, and paper as aforesaid shall be made in the form issued by the board of trade, and sanctioned by it as the proper form for the time being; and no such book, instrument, or paper as aforesaid, unless made in such form, shall be admissible in evidence in any civil proceeding on the part of any owner or master of any ship; and every such book, instrument, or paper, if made in a form purporting to be a proper form, and to be sealed or marked as aforesaid, shall be taken to be made in the form hereby required, unless the contrary is proved.

9. All instruments used in carrying into effect the second part of this Act, if not already exempted from stamp duty, and all instruments which by the third, fourth, sixth or seventh parts of this Act are required to be made in forms sanctioned by the board of trade, if made in such forms, and all instruments used by or under the direction of the board of trade in carrying such parts of this Act into effect, shall be exempt from stamp duty.

Certain Forms and Instruments to be exempt from Stamp Duty.

10. Every person who forges, assists in forging, or procures to be forged, such seal or other distinguishing mark as aforesaid, or who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any form issued by the board of trade, with the view of evading any of the provisions of this Act or any condition contained in such form, shall for each offence be deemed guilty of a misdemeanor; and every person, who, in any case in which a form sanctioned by the board of trade is, by the third part of this Act required to be used, uses without reasonable excuse any form not purporting to be so sanctioned, or who prints, sells or uses any document purporting to be a form so sanctioned knowing the same not to be so sanctioned for the time being or not to have been prepared and issued by the board of trade, shall for each such offence incur a penalty not exceeding ten pounds.

Penalties for Forgery of Seal and fraudulent alteration of Forms, and for not using Forms issued by Board of Trade.

11. Subject to the provisions hereinafter contained all fees and payments, (other than fines), coming to the hands of the board of trade under the third and fourth parts of this Act, shall be carried to the account of the mercantile marine fund, hereinafter mentioned, and shall be dealt with as hereinafter prescribed in that behalf; and all fines coming to the hands of the board of trade under this Act shall be paid into the receipt

Application of Moneys and Fines paid to Board of Trade.

ceipt of Her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom.

Returns to
Board of
Trade.

12. All consular officers, and all officers of customs abroad and all local marine boards and shipping masters, shall make and send to the board of trade such returns and reports on any matter relating to *British* merchant shipping or seamen as such board requires; and all shipping masters shall whenever required by the board of trade, produce to such board or to its officers all official log books and other documents which, in pursuance of this Act, are delivered to them.

Officers of
Board of
Trade, Naval
Officers,
Consuls, the
Registrar
General of
Seamen, offi-
cers of Cus-
toms and
Shipping
Masters, may
inspect docu-
ments and
muster Crews.

13. Every officer of the board of trade, and every commissioned officer of any of Her Majesty's ships on full pay, and every *British* consular officer, and the registrar general of seamen and his assistant, and every chief officer of customs in any place in Her Majesty's Dominions, and every shipping master, may, in cases where he has reason to suspect that the provisions of this Act or the laws for the time being relating to merchant seamen and to navigation are not complied with, exercise the following powers; (that is to say,)

He may require the owner, master, or any of the crew of any *British* ship to produce any official log books or other documents relating to such crew or any member thereof in their respective possession or control:

He may require any such master to produce a list of all persons on board his ship, and take copies of such official log books, or documents, or any part thereof:

He may muster the crew, of any such ship:

He may summon the master to appear and give any explanation concerning such ship or her crew or the said official log books or documents:

And if upon requisition duly made by any person so authorized in that behalf as aforesaid, any person refuses or neglects to produce any such official log book or document as he is hereinbefore required to produce, or to allow the same to be inspected or copied as aforesaid, or impedes any such muster of a crew as aforesaid, or refuses or neglects to give any explanation which he is hereinbefore required to give, or knowingly misleads or deceives any person hereinbefore authorized to demand any such explanation, he shall for each such offence incur a penalty not exceeding twenty pounds.

Board of Trade
may appoint
Inspectors.

14. The board of trade may from time to time, whenever it seems expedient to them so to do, appoint any person as an inspector,

inspector, to report to them upon the following matters ; (that is to say,)

- (1.) Upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused :
- (2.) Whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with :
- (3.) Whether the hull and machinery of any steamship are sufficient and in good condition.

15. Every such inspector as aforesaid shall have the follow- Powers of In-
spectors.
ing powers ; (that is to say,)

- (1.) He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage :
- (2.) He may enter and inspect any premises, the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make :
- (3.) He may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make :
- (4.) He may require and enforce the production of all books, papers or documents which he considers important for such purpose :
- (5.) He may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statement made by him in his examination :

And every witness so summoned as aforesaid shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before any court of record, or if in *Scotland*, to any witness attending on citation the court of justiciary ; and in case of any dispute as to the amount of such expenses the same shall be referred by the inspector to one of the masters of Her Majesty's Court of Queen's Bench in *England* or *Ireland*, or to the Queen's and Lord Treasurer's Remembrancer in *Scotland*, who, on a request made to him Witnesses to
be allowed
expenses ;
for

Penalty for
refusing to give
evidence.

for that purpose under the hand of the said inspector, shall ascertain and certify the proper amount of such expenses; and every person who refuses to attend as a witness before any such inspector, after having been required so to do in the manner hereby directed and after having had a tender made to him of the expenses, (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which any such inspector is hereby empowered to require, shall for each such offence incur a penalty not exceeding ten pounds.

Penalty for
obstructing
inspectors in
the execution
of their duty.

16. Every person who wilfully impedes any such inspector appointed by the board of trade as aforesaid in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding ten pounds, and may be seized and detained by such inspector or other person or by any person or persons whom he may call to his assistance until such offender can be conveniently taken before some justice of the peace or other officer having proper jurisdiction.

PART II.

BRITISH SHIPS : THEIR OWNERSHIP, MEASUREMENT, AND REGISTRY.

Application.

Application of
Part II. of Act.

17 The second part of this Act shall apply to the whole of Her Majesty's Dominions.

Description and Ownership of British Ships.

Description
and ownership
of British
Ships.

18 No ship shall be deemed to be a *British Ship* unless she belongs wholly to owners of the following description; (that is to say,)

(1.) Natural-born *British* subjects :

Provided that no natural-born subject who has taken the oath of allegiance to any Foreign Sovereign or State shall be entitled to be such owner as aforesaid, unless he has subsequently to taking such last-mentioned oath taken the oath of allegiance to Her Majesty, and is and continues to be during the whole period of his so being an owner resident in some place within Her Majesty's Dominions, or if not so resident, member of a *British* factory, or partner in a house actually carrying on
business

business in the United Kingdom or in some other place within Her Majesty's Dominions :

- (2.) Persons made denizens by letters of denization, or naturalized by or pursuant to any Act of the Imperial Legislature, or by or pursuant to any Act or Ordinance of the proper legislative authority in any *British Possession* :

Provided that such persons are and continue to be, during the whole period of their so being owners, resident in some place within Her Majesty's Dominions, or if not so resident, members of a *British* factory, or partners in a house actually carrying on business in the United Kingdom or in some other place within Her Majesty's Dominions, and have taken the oath of allegiance to Her Majesty subsequently to the period of their being so made denizens or naturalized :

- (3.) Bodies corporate established under, subject to the laws of, and having their principal place of business in the United Kingdom or some *British* possession.

(*But see Dom. Stat. 36 Vict., c. 128, s. 8.*)

19. Every *British* ship must be registered in manner hereinafter mentioned, except,

British Ships
with certain
exceptions
must be regis-
tered.

- (1.) Ships duly registered before this Act comes into operation :
- (2.) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some *British Possession* within which the managing owners of such ships are resident.
- (3.) Ships not exceeding thirty tons burden, and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of *Newfoundland* or parts adjacent thereto, or in the Gulf of *St. Lawrence*, or on such portion of the coasts of *Canada, Nova Scotia, or New Brunswick* as lie bordering on such gulf :

And no ship hereby required to be registered shall, unless registered, be recognized as a *British* ship ; and no officer of customs shall grant a clearance or *transire* to any ship hereby required to be registered for the purpose of enabling her to proceed to sea as a *British* ship, unless the master of such ship upon being required so to do, produces to him such certificate of Registry as is hereinafter mentioned ; and if

such

such ship attempts to proceed to sea as a *British* ship without a clearance or *transire*, such officer may detain such ship until such certificate is produced to him.

(But see sections 7 & 8 of Dom. Stat. 36 Vict., c. 128, as to ships exempted from registration in Canada.)

Measurement of Tonnage.

Tonnage
Deck; Feet;
Decimals.

20. Throughout the following rules the tonnage deck shall be taken to be the upper deck in ships which have less than three decks, and to be the second deck from below in all other ships; and in carrying such rules into effect all measurements shall be taken in feet and fractions of feet, and all fractions of feet shall be expressed in decimals.

RULE I.

For ships to be
registered and
other ships of
which the
hold is clear.

21. The tonnage of every ship to be registered, with the exceptions mentioned in the next section, shall, previously to her being registered, be ascertained by the following rule, hereinafter called Rule I.; and the tonnage of every ship to which such rule can be applied, whether she is about to be registered or not, shall be ascertained by the same rule:

Lengths.

- (1.) Measure the length of the ship in a straight line along the upper side of the tonnage deck from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be, (average thickness,) deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one-third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the ship belongs:

TABLE.

- | | |
|----------|--|
| Class 1. | Ships of which the tonnage deck is according to the above measurement 50 long or under, into 4 equal parts. |
| “ 2. | Ships of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120, into 6 equal parts: |
| “ 3. | Ships of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180, into 8 equal parts: |

Class

Class 4. Ships of which the tonnage deck is according to the above measurement above 180 feet long and not exceeding 225, into 10 equal parts :

“ 5. Ships of which the tonnage deck is according to the above measurement above 225 feet long, into 12 equal parts :

- (2.) Then the hold being first sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of such ship at each point of division of the length as follows :

Transverse
areas.

Measure the depth at each point of division, from a point at a distance of one-third of the round of the beam below such deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake after deducting the average thickness of the ceiling which is between the bilge planks and limber strake ; then, if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts ; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement ; number these breadths from above (*i. e.* numbering the upper breadth one, and so on down to the lowest breadth) ; multiply the second and fourth by four, and the third by two ; add these products together, and to the sum add the first breadth and the fifth ; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area ; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure as before directed the horizontal breadths at the five points of division, and also at the upper and lower points of the depth ; number them from above as before ; multiply the second, fourth, and sixth by four, and the third and fifth by two ; add these products together, and to the sum add the first breadth and the seventh ; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area.

- (3.) Having thus ascertained the transverse area at each point of division of the length of the ship as required by the above table, proceed to ascertain the register tonnage of the ship in the following manner :

Computation
from areas.

Number

Number the areas successively 1, 2, 3, &c., No. 1 being at the extreme limit of the length at the bow, and the last No. at the extreme limit at the length at the stern; then, whether the length be divided according to the table into four or twelve parts as in classes 1 and 5, or any intermediate number as in Classes 2, 3, and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two; add these products together, and to the sum add the first and last if they yield anything; multiply the quantity thus obtained by one third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient being the tonnage under the tonnage deck shall be deemed to be the register tonnage of the ship, subject to the additions and deductions hereinafter mentioned.

Poop and any
other closed-in
space.

- (4.) If there be a break, a poop, or any other permanent closed-in space on the upper deck, available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows:

Measure the internal mean length of such space in feet, and divide it into two equal parts; measure at the middle of its height three inside breaths, namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one third of the common interval between the breadths; the product will give the mean horizontal area of such space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage deck, ascertained as aforesaid, subject to the following provisoes; first, that nothing shall be added for a closed-in space solely appropriated to the berthing of the crew, unless such space exceeds one twentieth of the remaining tonnage of the ship, and in case of such excess the excess only shall be added; and, secondly, that nothing shall be added in respect of any building erected for the shelter of deck passengers, and approved by the Board of Trade.

In case of two
or more decks.

- (5.) If the ship has a third deck, commonly called a spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:

Measure in feet the inside length of the space at the middle of its height from the plank at the side of the stem

stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed ; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth at the stern ; number them successively, 1, 2, 3, &c., commencing at the stem ; multiply the second and all the other even numbered breadths by four, and the third and all the other odd numbered breadths (except the first and last) by two ; to the sum of these products add the first and last breadths ; multiply the whole sum by one third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of such space ; measure the mean height of such space, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space : divide this product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the other tonnage of the ship ascertained as aforesaid ; and if the ship has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described, and shall be added to the tonnage of the ship ascertained as aforesaid.

RULE II.

22. Ships which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, requiring to be measured for the purpose of registry, cannot be measured by the rule above given, shall be measured by the following rule, hereinafter called Rule II. :

For ships not requiring registry with cargo on board.

(1.) Measure the length on the upper deck from the outside of the outer plank at the stem to the aftside of the stern post, deducting therefrom the distance between the aftside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it ; measure also

Length.

the greatest breadth of the ship to the outside of the outer planking or Wales, and then, having first marked

Breadth.

on the outside of the ship on both sides thereof the height of the upper deck at the ship's sides, girth the ship at the greatest breadth in a direction perpendicular to the keel from the height so marked on the outside of the ship on the one side to the height so marked on the other side by passing a chain under the keel ; to Half the girth thus taken add half the main breadth ; square the sum ; multiply the result by the length of the ship taken as aforesaid ; then multiply this product by the factor .0018 (eighteen ten-thousandths) in the case of ships built of wood, and by .0021 (twenty-one ten thousandths) in the case of ships built of iron, and the product shall be

Girthing of the ship.

deemed

deemed the register tonnage of the ship subject to the additions and deductions hereinafter mentioned.

Poop and other closed-in spaces on upper deck.

- (2.) If there be a break, a poop, or other closed-in space on the upper deck, the tonnage of such space, shall be ascertained by multiplying together the mean length, breadth, and depth of such space, and dividing the product by 100, and the quotient so obtained shall be deemed to be the tonnage of such space, and shall, subject to the deduction for a closed-in space appropriated to the crew as mentioned in rule I., be added to the tonnage of the ship ascertained as aforesaid.

RULE III.

Allowance for engine room in steamers.

- 23.** In every ship propelled by steam or other power requiring engine room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as aforesaid, and the remainder shall be deemed to be the register tonnage of such ship; and such deduction shall be estimated as follows: (that is to say,)

To be rateable in ordinary steamers.

- (a.) As regards ships propelled by paddle wheels in which the tonnage of the space solely occupied by and necessary for the proper working of the boilers and machinery is above twenty per cent. and under thirty per cent. of the gross tonnage of the ship, such deduction shall be thirty-seven one-hundredths of such gross tonnage; and in ships propelled by screws in which the tonnage of such space is above thirteen per cent. and under twenty per cent. of such gross tonnage, such deduction shall be thirty-two one-hundredths of such gross tonnage:

May be measured where the space is unusually large or small.

- (b.) As regards all other ships, the deduction shall, if the commissioners of customs and the owner both agree thereto, be estimated in the same manner; but either they or he may in their or his discretion require the space to be measured and the deduction estimated accordingly; and whenever such measurement is so required the deduction shall consist of the tonnage of the space actually occupied by or required to be inclosed for the proper working of the boilers and machinery, with the addition in the case of ships propelled by paddle wheels of one half, and in the case of ships propelled by screws of three fourths of the tonnage of such space, and the measurement and use of such space shall be governed by the following rules; (that is to say,)

Mode of measurement.

- (1.) Measure the mean depth of the space from its crown to the ceiling at the limber strake, measure also three or, if necessary, more than three breadths of the space at the middle of its depth, taking one of such measurements at each

each end, and another at the middle of the length ; take the mean of such breadths ; measure also the mean length of the space between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery ; multiply together these three dimensions of length, breadth, and depth, and the product will be the cubical contents of the space below the crown ; then find the cubical contents of the space or spaces, if any, above the crown aforesaid, which are framed in for the machinery or for the admission of light and air, by multiplying together the length, depth, and breadth thereof ; add such contents to the cubical contents of the space below the crown ; divide the sum by 100 ; and the result shall be deemed to be the tonnage of the said space :

- (2.) If in any ship in which the space aforesaid is to be measured the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space : In case of separate compartments.
- (3.) In the case of screw steamers in which the space aforesaid is to be measured, the contents of the shaft trunk shall be added to and deemed to form part of such space, and shall be ascertained by multiplying together the mean length, breadth, and depth of the trunk, and dividing the product by 100 : Shaft Trunk of screw steamer.
- (4.) If in any ship in which the space aforesaid is to be measured any alteration be made in the length or capacity of such space, or if any cabins be fitted in such space, such ship shall be deemed to be a ship not registered until remeasurement : Alteration of engine room.
- (5.) If in any ship in which the space aforesaid is to be measured any goods or stores are stowed or carried in such space, the master and owner shall each be liable to a penalty not exceeding one hundred pounds. Penalty for carrying goods in such space.

(See Imp. Act 35 & 36 Vict., c. 73, by which the duties of the Commissioners of Customs, with respect to the measurement of ships, are transferred to the Board of Trade.)

RULE IV.

24. In ascertaining the tonnage of open ships the upper edge of the upper strake is to form the boundary line of measurement, and the depths shall be taken from an athwartship line, extended from upper edge to upper edge of the said strake at each division of the length. Open ships how measured.

(Sec. 25 provided that in every registered British ship the number denoting the registered tonnage should be carved on her main

main beam, but is repealed by Imp. Act 34 & 35 Vict., c. 110, and other provision is made as to the same subject by section 4 of that Act, and by Imp. Act 36 & 37 Vict., c. 85, sec. 3.)

Tonnage when once ascertained to be ever after deemed the tonnage.

26. Whenever the tonnage of any ship has been ascertained and registered in accordance with the provisions of this Act, the same shall thenceforth be deemed to be the tonnage of such ship, and be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of such ship, or unless it is discovered that the tonnage of such ship has been erroneously computed; and in either of such cases such ship shall be remeasured, and her tonnage determined and registered according to the rules hereinbefore contained in that behalf.

Remeasurement of ships already registered may be made but not to be compulsory.

27. The rules for the measurement of tonnage herein contained shall not make it necessary to alter the present registered tonnage of any *British* ship registered before this Act comes into operation; but if the owner of any such ship desires to have the same remeasured according to such rules, he may apply to the commissioners of customs for the purpose, and such commissioners shall thereupon, and on payment of such reasonable charge for the expenses of remeasurement, not exceeding the sum of seven shillings and sixpence for each transverse section, as they may authorize, direct such remeasurement to be made, and such ship shall thereupon be remeasured according to such rules as aforesaid, or according to such of them as may be applicable; and the number denoting the registered tonnage shall be altered accordingly.

Power to remeasure engine rooms improperly extended.

28. If it appears to the commissioners of customs that in any steamship measured before this Act comes into operation store rooms or coal bunkers have been introduced into or thrown across the engine room, so that the deduction from the tonnage on account of the engine room is larger than it ought to be, the said commissioners may, if they think fit, direct such engine room to be remeasured according to the rules in force before this Act comes into operation, excluding the space occupied by such store rooms or coal bunkers, or may, if the owners so desire, cause the ship to be remeasured according to the rules hereinbefore contained, and subject to the conditions contained in the last preceding section; and after remeasurement the said commissioners shall cause the ship to be registered anew, or the registry thereof to be altered as the case may require.

Officers may be appointed and regulations made for measurement of ships.

29. The commissioners of customs may, with the sanction of the treasury, appoint such persons to superintend the survey and admeasurement of ships as they think fit; and may, with the approval of the board of trade, make such regulations for that purpose as may be necessary; and also,

also, with the like approval, make such modifications and alterations as from time to time become necessary in the tonnage rules hereby prescribed, in order to the more accurate and uniform application thereof, and the effectual carrying out of the principle of admeasurement therein adopted.

Registry of British Ships.

30. The following persons are required to register *British* ships, and shall be deemed registrars for the purposes of this Act; (that is to say,) Registrars of British Ships.

(The sub sections 1, 2, 3, 4, and 5 of this section named the officers who should be registrars of shipping in the British Possessions therein mentioned, but do not refer to Canada.)

(6.) At every other port or place so approved as aforesaid within Her Majesty's Dominions abroad, the collector, comptroller, or other principal officer of customs or of navigation laws, or if there is no such officer resident at such port or place, the Governor, Lieutenant Governor, or other person administering the government of the Possession in which such port or place is situate.

(But see Dom. Act 36 Vict., c. 128, s. 10.)

31. The Governor, Lieutenant Governor, or other person administering the government in any *British Possession* where any ship is registered under the authority of this Act shall, with regard to the performance of any act or thing relating to the registry of a ship or of any interest therein, be considered in all respects as occupying the place of the commissioners of customs; and any *British* consular officer shall, in any place where there is no justice of the peace, be authorized to take any declaration hereby required or permitted to be made in the presence of a justice of the peace. Substitution of Governor abroad for Commissioners of Customs, and of Consul for Justice.

32. Every registrar shall keep a book, to be called "The Register Book," and enter therein the particulars hereinafter required to be registered. Registrar to keep Register Books.

33. The port or place at which any *British* ship is registered for the time being shall be considered her port of registry or the port to which she belongs. Port of Registry of British Ship.

34. The following rules shall be observed with respect to the names of *British* registered ships; (that is to say,) Name of Ship

(1.) Before registry the name of each ship and of the port to which she belongs shall be painted on a conspicuous part of her stern on a dark ground in white or yellow letters of a length not less than four inches:

(See

(See *Imp. Act 18 & 19 Vict., c. 91, s. 13, and Dom. Act 36 Vict., c. 128, s. 22.*)

- (2.) No change shall be made in the name of any registered ship :
- (3.) No concealment, absence, or avoidable obliteration of the the above names shall be permitted, except for the purpose of escaping capture by an enemy :
- (4.) The ship shall not be described by or with the knowledge of the owner or master by any name other than the one by which she is registered :

And for every breach of the above rules, or any of them, the owner and master shall each incur a penalty not exceeding one hundred pounds.

(Further provision is made with reference to the subject of this section by *Imp. Acts 18 & 19 Vict., c. 91, s. 13, 34 & 35 Vict., c. 110, s.s. 4 & 6, and 35 & 36 Vict. c. 73. s. 3 ; and see Dom. Act 36 Vict., c. 128, s. 22, as to the rules to be observed with respect to the names of ships registered in Canada.*)

Application
for Registry
by whom to
be made.

35. Every application for the registry of a ship shall in the case of individuals be made by the person requiring to be registered as owner, or by some one or more of such persons if more than one, or by his or their duly authorized agent, and in the case of bodies corporate by their duly authorized agent ; the authority of such agent, if appointed by individuals, to be testified by some writing under the hands of the appointors, and if appointed by a body corporate, by some instrument under the common seal of such body corporate.

Survey of Ship.

36. Before registry, the ship shall be surveyed by a person duly appointed under this Act ; and such surveyor shall grant a certificate in the form marked A in the schedule hereto, specifying her tonnage, build, and such other particulars descriptive of the identity of the ship as may from time to time be required by the board of trade ; and such certificate shall be delivered to the registrar before registry.

Rules as to
Entries in
Registry Book.

37. The following rules shall be observed with respect to entries in the register book ; (that is to say,)

- (1.) The property in a ship shall be divided into sixty-four shares :
- (2.) Subject to the provisions with respect to joint owners or owners by transmission hereinafter contained, not more than thirty-two individuals shall be entitled to be registered

tered at the same time as owners of any one ship ; but this rule shall not affect the beneficial title of any number of persons or of any company represented by, or claiming under or through any registered owner or joint owner :

- (3.) No person shall be entitled to be registered as owner of any fractional part of a share in a ship ; but any number of persons, not exceeding five, may be registered as joint owners of a ship or of a share or shares therein :
- (4.) Joint owners shall be considered as constituting one person only as regards the foregoing rule relating to the number of persons entitled to be registered as owners, and shall not be entitled to dispose in severalty of any interest in any ship or in any share or shares therein in respect of which they are registered :
- (5.) A body corporate may be registered as owner by its corporate name.

38. No person shall be entitled to be registered as owner of a ship or any share therein until he has made and subscribed a declaration in the form marked B. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars ; (that is to say,) Declaration of ownership by individual owner.

- (1.) A statement of his qualification to be an owner of a share in a *British Ship* :
- (2.) A statement of the time when and the place where such ship was built, or (if the ship is foreign-built, and the time and place of building not known) a statement that she is foreign-built, and that he does not know the time or place of her building ; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned :
- (3.) A statement of the name of the master :
- (4.) A statement of the number of shares in such ship of which he is entitled to be registered as owner :
- (5.) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship or any share therein :

The above declaration of ownership shall be made and subscribed in the presence of the registrar if the declarant reside within

within five miles of the custom house of the port of registry, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Declaration of
ownership by
body corpo-
rate.

39. No body corporate shall be entitled to be registered as owner of a ship or of any share therein until the secretary or other duly appointed public officer of such body corporate has made and subscribed in the presence of the registrar of the port of registry a declaration in the form marked C. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars ; (that is to say,)

- (1.) A statement of such circumstances of the constitution and business of such body corporate as prove it to be qualified to own a *British* ship :
- (2.) A statement of the time when and the place where such ship was built, or, (if the ship is foreign-built, and the time and place of building unknown,) a statement that she is foreign-built, and that he does not know the time or place of her building ; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or, (in the case of a ship condemned,) a statement of the time, place, and court at and by which she was condemned :
- (3.) A statement of the name of the master :
- (4.) A statement of the number of shares in such ship of which such body corporate is owner :
- (5.) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship or any share therein :

Evidence to be
produced on
registry.

40. Upon the first registry of a ship there shall, in addition to the declaration of ownership, be produced the following evidence ; (that is to say,)

- (1.) In the case of a *British*-built ship, a certificate, (which the builder is hereby required to grant under his hand), containing a true account of the proper denomination and of the tonnage of such ship as estimated by him, and of the time when and of the place where such ship was built, together with the name of the party, (if any), on whose account he has built the same, and, if any sale or sales have taken place, the bill or bills of sale under which the ship or share therein has become vested in the party requiring to be registered as owner :

(2.)

- (2.) In the case of a foreign-built ship, the same evidence as in the case of a *British*-built ship, unless the person requiring to be registered as owner, or, in the case of a body corporate, the duly appointed officer, declares that the time or place of her building is unknown, or that the builder's certificate cannot be procured, in which case there shall be required only the bill or bills of sale under which the ship or share therein became vested in the party requiring to be registered as owner thereof :
- (3.) In the case of a ship condemned by any competent court, an official copy of the condemnation of such ship.

(See *Dom. Stat. 36 Vict., c. 128, s. 13.*)

41. If any builder wilfully makes a false statement in any certificate hereby required to be granted by him, he shall, for every such offence, incur a penalty not exceeding one hundred pounds. Penalty on builder for false certificate.

(And see *Imp. Act 18 & 19 Vict., c. 91, s. 9*)

42. As soon as the foregoing requisites to the due registry of a ship have been complied with, the registrar shall enter in the register book the following particulars relating to such ship ; (that is to say,) Particulars of Entry in Register Book

- (1.) The name of the ship and the port to which she belongs :
- (2.) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor :
- (3.) The several particulars as to her origin stated in the declaration of ownership :
- (4.) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are interested in such ship.

43. No notice of any trust, express, implied, or constructive, shall be entered in the register book, or receivable by the registrar ; and, subject to any rights and powers appearing by the register book to be vested in any other party, the registered owner of any ship or share therein shall have power absolutely to dispose in manner hereinafter mentioned of such ship or share, and to give effectual receipts for any money paid or advanced by way of consideration. No notice taken of Trusts.

(But see *Imp. Act 25 & 26 Vict., c. 63, s. 3.*)

Certificate

Certificate of Registry.

Certificate of
Registry to be
granted.

44. Upon the completion of the registry of any ship the registrar shall grant a certificate of registry in the form marked D. in the schedule hereto, comprising the following particulars ; (that is to say,)

- (1.) The name of the ship and of the port to which she belongs :
- (2.) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor :
- (3.) The name of her master :
- (4.) The several particulars as to her origin stated in the declaration or declarations of ownership :
- (5.) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are respectively interested, indorsed upon such certificate.

(See *Imp. Act 31 & 32 Vict., c. 129, as to the grant of terminable certificates of registry in the colonies.*)

Change of
owners to be
indorsed on
certificate of
registry.

45. Whenever any change takes place in the registered ownership of any ship, then, if such change occurs at a time when the ship is at her port of registry, the master shall forthwith deliver the certificate of registry to the registrar, and he shall endorse thereon a memorandum of such change ; but if such change occurs during the absence of the ship from her port of registry, then upon her first return to such port the master shall deliver the certificate of registry to the registrar, and he shall endorse thereon a like memorandum of the change ; or if she previously arrives at any port where there is a *British* registrar, such registrar shall, upon being advised by the registrar of her port of registry of the change having taken place, endorse a like memorandum thereof on the certificate of registry, and may for that purpose require the certificate to be delivered to him, so that the ship be not thereby detained ; and any master who fails to deliver to the registrar the certificate of registry as hereinbefore required shall incur a penalty not exceeding one hundred pounds.

Change of
master to be
indorsed on
certificate of
registry.

46. Whenever the master of any *British* registered ship is changed, the following persons, that is to say, if such change is made in consequence of the sentence of any naval court, the presiding officer of such court, but if the change takes place from any other cause, the registrar, or, if there is

no registrar, the *British* consular officer resident at the port where such change takes place, shall indorse on the certificate of registry a memorandum of such change, and subscribe his name to such indorsement, and forthwith report the change of master to the commissioners of customs in *London*; and the officers of customs at any port situate within Her Majesty's Dominions may refuse to admit any person to do any act at such port as master of any *British* ship, unless his name is inserted in or indorsed upon the certificate of registry of such ship as the last appointed master thereof.

(*Imp. Act 35 & 36 Vict., c. 73, s. 4, provides that this section shall be read and construed as if the Registrar General of Seamen were therein named, instead of the Commissioners of Customs; and see Dom. Stat. 36 Vict., c. 128, ss. 18, 19, and 20.*)

47. The registrar may, with the sanction of the commissioners of customs, upon the delivery up to him of the former certificate of registry, grant a new certificate in the place of the one so delivered up.

Power to grant new certificate.

48. In the event of the certificate of registry of any ship being mislaid, lost or destroyed, if such event occurs at any port in the United Kingdom, the ship being registered in the United Kingdom, or at any port in any *British* Possession the ship being registered in the same *British* Possession, then the registrar of her port of registry shall grant a new certificate of registry in lieu of, and as a substitute for her original certificate of registry; but if such event occurs elsewhere, the master or some other person having knowledge of the circumstances shall make a declaration before the registrar of any port having a *British* registrar at which such ship is at the time or first arrives after such mislaying, loss, or destruction; and such declaration shall state the facts of the case, and the names and descriptions of the registered owners of such ship, to the best of declarant's knowledge and belief; and the registrar shall thereupon grant a provisional certificate, as near to the form appointed by this Act as circumstances permit, and shall insert therein a statement of the circumstances under which such provisional certificate is granted.

Provision in case of loss of certificate.

(*But see Dom. Stat. 36 Vict., c. 128, s. 15.*)

49. Every such provisional certificate shall, within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, if registered in the United Kingdom, or if registered elsewhere, at her port of discharge in the *British* Possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon grant a new one, as near to the form appointed by this Act as circumstances permit; and if the master

Provisional certificate to be delivered up.

master neglects to deliver up such certificate within such time he shall incur a penalty not exceeding fifty pounds.

Custody of
certificate.

Delivery of
certificate may
be required.

Penalty for
detention.

50. The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatsoever which any owner, mortgagee, or other person may have or claim to have on or in the ship described in such certificate: And if any person whatever, whether interested or not in the ship, refuses, on request, to deliver up such certificate when in his possession or under his control to the person for the time being entitled to the custody thereof for the purposes of such lawful navigation as aforesaid, or to any registrar, officer of the customs, or other person legally entitled to require such delivery, it shall be lawful for any justice, by warrant under his hand and seal, or for any court capable of taking cognizance of such matter, to cause the person so refusing to appear before him and to be examined touching such refusal: And unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal, the offender shall incur a penalty not exceeding one hundred pounds; but if it is made to appear to such justice or court that the certificate is lost, the party complained of shall be discharged, and such justice or court shall thereupon certify that the certificate of registry is lost.

Mode of proceeding, if
detaining party abscond.

51. If the person charged with such detainer or refusal is proved to have absconded, so that the warrant of the justice or process of the court cannot be served upon him, or if he persists in his refusal to deliver the certificate, such justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate of registry mislaid, lost, or destroyed, or as near thereto as circumstances permit.

Penalty for
using improper
certificate.

52. If the master or owner of any ship uses or attempts to use for the navigation of such ship a certificate of registry not legally granted in respect of such ship, he shall be guilty of a misdemeanor, and it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any *British* officer of customs, or any *British* consular officer, to seize and detain such ship, and to bring her for adjudication before the High Court of Admiralty in *England* or *Ireland* or any court having admiralty jurisdiction in Her Majesty's Dominions; and if such court is of opinion that such use or attempt at use has taken place, it shall pronounce such ship, with her tackle, apparel, and furniture to be forfeited to Her Majesty, and may award such portion of the proceeds arising from the sale of such ship as it may think just to the officer so bringing in the same for adjudication.

53. If any registered ship is either actually or constructively lost, taken by the enemy, burnt, or broken up, or if by reason of a transfer to any persons not qualified to be owners of *British* ships, or any other matter or thing, any such ship as aforesaid ceases to be a *British* ship, every person who at the time of the occurrence of any of the aforesaid events owns such ship or any share therein shall, immediately upon obtaining knowledge of any such occurrence, if no notice thereof has already been given to the registrar at the port of registry of such ship, give such notice to him, and he shall make an entry thereof in his register book; and except in cases where the certificate of registry is lost or destroyed, the master of every ship so circumstanced as aforesaid shall immediately, if such event occurs in port, but if the same occurs elsewhere, then within ten days after his arrival in port, deliver the certificate of registry to the registrar, or, if there be no registrar, to the *British* consular officer at such port, and such registrar, if he is not himself the registrar of her port of registry, or such *British* consular officer, shall forthwith forward the certificate so delivered to him to the registrar of the port of registry of the ship; and every owner and master who, without reasonable cause, makes default in obeying the provisions of this section shall for each offence incur a penalty not exceeding one hundred pounds.

Certificate of ship lost or ceasing to be *British* to be delivered up.

(But see Dom. Stat. 36 Vict., c. 128, ss. 23 and 24.)

54. If any ship becomes the property of persons qualified to be owners of *British* ships at any foreign port, the *British* consular officer resident at such port may grant the master of such ship, upon his application, a provisional certificate, stating—

Provisional certificate for ship becoming vested in *British* owners at foreign port.

The name of the ship;

The time and place of her purchase, and the names of her purchasers;

The name of her master;

The best particulars as to her tonnage, build, and description that he is able to obtain.

And he shall forward a copy of such certificate, at the first convenient opportunity, to the commissioners of customs in London: The certificate so granted shall possess the same force as a certificate of registry until the expiration of six months, or until such earlier time as the ship arrives at some port where there is a *British* registrar; but upon the expiration of such period, or upon arrival at such port, shall be void to all intents.

(The

(*The Registrar General of Seamen is substituted for the Commissioner of Customs in this section by Imp. Act 35 & 36 Vict., c. 73, s. 4.*)

Transfers and Transmissions.

Transfer of
ships or shares
therein.

55. A registered ship or any share therein, when disposed of to persons qualified to be owners of *British* ships, shall be transferred by bill of sale; and such bill of sale shall contain such description of the ship as is contained in the certificate of the surveyor, or such other description as may be sufficient to identify the ship to the satisfaction of the registrar, and shall be according to the form marked E. in the schedule hereto, or as near thereto as circumstances permit, and shall be executed by the transferor in the presence of, and be attested by, one or more witnesses.

Declaration to
be made by
transferree.

56. No individual shall be entitled to be registered as transferee of a ship or any share therein until he has made a declaration in the form marked F. in the schedule hereto, stating his qualification to be registered as owner of a share in a *British* ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership by an original owner; and no body corporate shall be entitled to be registered as transferee of a ship or any share therein until the secretary or other duly appointed public officer of such body corporate has made a declaration in the form marked G. in the schedule hereto, stating the name of such body corporate, and such circumstances of its constitution and business as may prove it to be qualified to own a *British* ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership made on behalf of a body corporate: In the case of an individual, the above declaration shall be made, if he reside within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace; in the case of a body corporate the declaration shall be made in the presence of the registrar of the port of registry.

Registration
of transfer.

57. Every bill of sale for the transfer of any registered ship, or of any share therein, when duly executed, shall be produced to the registrar of the port at which the ship is registered, together with the declaration hereinbefore required to be made by a transferee; and the registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share comprised in such bill of sale, and shall indorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale of any ship or shares in a ship shall be entered in the register book in the order of their production to the registrar.

58. If the property in any ship or in any share therein becomes transmitted in consequence of the death, or bankruptcy or insolvency of any registered owner, or in consequence of the marriage of any female registered owner, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such property has been transmitted, made in the form marked H. in the schedule hereto, and containing the several statements hereinbefore required to be contained in the declaration of a transferee, or as near thereto as circumstances permit, and, in addition, a statement describing the manner in which, and the party to whom such property has been transmitted; and such declaration shall be made and subscribed if the declarant resides at or within five miles of the custom house of the port of registry in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Transmission of shares by death, bankruptcy or marriage.

59. If such transmission has taken place by virtue of the bankruptcy or insolvency of any registered owner, the said declaration shall be accompanied by such evidence as may for the time being be receivable in courts of Justice as proof of the title of parties claiming under any bankruptcy or insolvency; and if such transmission has taken place by virtue of the marriage of a female owner, the said declaration shall be accompanied by a copy of the register of such marriage or other legal evidence of the celebration thereof, and shall declare the identity of the said female owner; and if such transmission has taken place by virtue of any testamentary instrument or by intestacy, then in *England, Wales, and Ireland*, the said declaration shall be accompanied by the probate of the will or the letters of administration or an official extract therefrom, and in *Scotland* or in any *British Possession* by the will or any copy thereof that may be evidence by the laws of *Scotland* or of such possession, or by letters of administration, or any copy thereof, or by such other document as may by the laws of *Scotland* or of such possession be receivable in the courts of judicature thereof as proof of the person entitled upon an intestacy.

Proof of transmission by bankruptcy, marriage, will, or on intestacy.

60. The registrar, upon the receipt of such declaration so accompanied as aforesaid, shall enter the name or names of the person or persons entitled under such transmission in the register book as owner or owners of the ship or share therein in respect of which such transmission has taken place; and such persons if more than one, shall, however numerous, be considered as one person only as regards the rule hereinbefore contained relating to the number of persons entitled to be registered as owners.

Registration of transmitted share.

61. Of the documents hereby required to be produced to the registrar, he shall retain in his possession the following; that

Registrar to retain certain evidence.

that is to say, the surveyor's certificate, the builder's certificate, the copy of the condemnation, and all declarations of ownership.

Unqualified owner entitled by transmission may apply to courts for sale of ship.

62. Whenever any property in a ship or share in a ship becomes vested by transmission on the death of any owner or on the marriage of any female owner in any person not qualified to be an owner of *British* ships, it shall be lawful, if such ship is registered in *England* or *Ireland*, for the Court of Chancery, if in *Scotland*, for the Court of Session, or if in any *British* Possession, for any court possessing the principal civil jurisdiction within such possession, upon an application made by or on behalf of such unqualified person, to order a sale to be made of the property so transmitted, and to direct the proceeds of such sale, after deducting the expenses thereof, to be paid to the person entitled under such transmission, or otherwise as the court may direct; and it shall be in the discretion of any such court as aforesaid to make or refuse any such order for sale, and to annex thereto any terms or conditions, and to require any evidence in support of such application it may think fit, and generally to act in the premises in such manner as the justice of the case requires.

Order to be made by court

63. Every order for a sale made by such court as aforesaid shall contain a declaration vesting the right to transfer the ship or share so to be sold in some person or persons named by the court, and such nominee or nominees shall thereupon be entitled to transfer such ship or share in the same manner, and to the same extent, as if he or they were the registered owner or owners of the same; and every registrar shall obey the requisition of such nominee or nominees as aforesaid in respect of any transfer to the same extent as he would be compellable to obey the requisitions of any registered owner or owners of such ship or share.

Limit of time for application.

64. Every such application as aforesaid for sale shall be made within four weeks after the occurrence of the event on which such transmission has taken place, or within such further time as such court as aforesaid may allow, such time not in any case to exceed the space of one year from the time of such occurrence as aforesaid; and in the event of no such application being made within such period as aforesaid, or of such court refusing to accede thereto, the ship or share so transmitted shall thereupon be forfeited in manner hereinafter directed with respect to interests acquired by unqualified owners in ships using a *British* flag and assuming the *British* character.

Power of courts to prohibit transfers.

65. It shall be lawful, in *England* or *Ireland*, for the Court of Chancery, in *Scotland*, for the Court of Sessions, in any *British* Possession, for any court possessing the principal civil jurisdiction within such possession, without prejudice to the exercise

exercise of any other power such court may possess, upon the summary application of any interested person made either by petition or otherwise, and either *ex parte* or upon service of notice on any other person, as the court may direct, to issue an order prohibiting for a time to be named in such order any dealing with such ship or share; and it shall be in the discretion of such court to make or refuse any such order, and to annex thereto any terms or conditions it may think fit, and to discharge such order when granted with or without costs, and generally to act in the premises in such as the justice of the case requires; and every registrar without being made a party to the proceedings, upon being served with such order, or an official copy thereof shall obey the same.

Mortgages.

(See *Dom. Stat. 36 Vict., c. 128, part 3, as to security for advances on ships about to be built or in course of construction.*)

66. A registered ship or any share therein may be made a security for a loan or other valuable consideration; and the instrument creating such security, hereinafter termed a "Mortgage," shall be in the form marked I. in the schedule hereto, or as near thereto as circumstances permit; and on the production of such instrument the registrar of the port at which the ship is registered shall record the same in the register book.

Mortgage of ships and shares therein.

67. Every such mortgage shall be recorded by the registrar in the order of time in which the same is produced to him for that purpose; and the registrar shall, by memorandum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record.

Mortgages to be registered in order of time of production.

68. Whenever any registered mortgage has been discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that such mortgage has been discharged; and upon such entry being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made.

Entry of discharge of mortgage.

69. If there is more than mortgage registered of the same ship or share therein, the mortgagee shall, notwithstanding any express, implied, or constructive notice, be entitled in priority one over the other according to the date at which each instrument is recorded in the register books, and not according to the date of each instrument itself.

Priority of mortgages.

Mortgagee not to be deemed owner.

70. A mortgagee shall not by reason of his mortgage be deemed to be the owner of a ship or any share therein, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship or share, except in so far as may be necessary for making such ship or share available as security for the mortgage debt.

Mortgagee to have power of sale.

71. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but if there are more persons than one registered as mortgagees of the same ship or share, no subsequent mortgagee shall, except under the order of some court capable of taking cognizance of such matters, sell such ship or share without the concurrence of every prior mortgagee.

Rights of mortgagee not affected by any Act of bankruptcy of mortgagor.

72. No registered mortgage of any ship or of any share therein shall be affected by any act of bankruptcy committed by the mortgagor after the date of the record of such mortgage, notwithstanding such mortgagor at the time of his becoming bankrupt may have in his possession and disposition and be reputed owner of such ship or share thereof; and such mortgage shall be preferred to any right, claim, or interest in such ship or any share thereof which may belong to the assignees of such bankrupt.

Transfer of mortgages.

73. A registered mortgage of any ship or share in a ship may be transferred to any person, and the instrument creating such transfer shall be in the form marked K. in the schedule hereto, and on the production of such instrument the registrar shall enter in the register book the name of the transferee as mortgagee of the ship or shares therein mentioned, and shall by memorandum under his hand record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record.

Transmission of interest of mortgagee by death, bankruptcy, or marriage.

74. If the interest of any mortgagee in any ship or in any share therein becomes transmitted in consequence of death, bankruptcy, or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted made in the form marked L. in the schedule hereto, and containing a statement describing the manner in which, and the party to whom, such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance in the presence of any registrar, or of any justice of the peace, and shall be accompanied by such evidence as is hereinbefore required to authenticate a corresponding transmission of property from one registered owner to another.

75. The registrar, upon the receipt of such declaration and the production of such evidence as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as mortgagee or mortgagees of the ship or share in respect of which such transmission has taken place.

Entry of transmitted mortgage.

Certificates of Mortgage and Sale.

76. Any registered owner, if desirous of disposing by way of mortgage or sale of the ship or share in respect of which he is registered at any place out of the country or possession in which the port of registry of such ship is situate, may apply to the registrar, who shall thereupon enable him to do so by granting such certificates as are hereinafter mentioned to be called respectively certificates of mortgage or certificates of sale, according as they purport to give a power to mortgage or a power to sell.

Powers of mortgage and sale may be conferred by certificate.

77. Previously to any certificate of mortgage or sale being granted, the applicant shall state to the registrar, to be by him entered in the register book, the following particulars; (that is to say,)

Requisites for certificates of mortgage and sale.

- (1.) The names of the persons by whom the power mentioned in such certificate is to be exercised, and, in the case of a mortgage, the maximum amount of charge to be created, if it is intended to fix any such maximum, and, in the case of a sale, the minimum price at which a sale is to be made, if it is intended to fix any such minimum:
- (2.) The specific place or places where such power is to be exercised, or if no place be specified, then that it may be exercised anywhere, subject to the provisions hereinafter contained:
- (3.) The limit of time within which such power may be exercised.

78. No certificate of mortgage or sale shall be granted so as to authorize any mortgage or sale to be made—

Restrictions on certificates of mortgage and sale.

At any place within the United Kingdom, if the port of registry of the ship be situate in the United Kingdom; or at any place within the same *British Possession* if the port of registry is situate within a *British Possession*; or,

By any person not named in the certificate.

79. Certificates of mortgage and sale shall be in the forms marked respectively M. and N. in the schedule hereto, and shall

Forms of certificates of mortgage and sale.

shall contain a statement of the several particulars hereinbefore directed to be entered in the register book, and, in addition thereto, an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ships or shares in respect of which such certificates are given.

Rules as to
certificates of
mortgage.

80. The following rules shall be observed as to certificates of mortgage ; (that is to say,)

- (1.) The power shall be exercised in conformity with the directions contained in the certificate :
- (2.) A record of every mortgage made thereunder shall be indorsed thereon by a registrar or *British* consular officer :
- (3.) No mortgage *bonâ fide* made thereunder shall be impeached by reason of the person by whom the power was given dying before the making of such mortgage :
- (4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no mortgage *bonâ fide* made to a mortgagee without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given :
- (5.) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book ; and if there be more mortgages than one so indorsed the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other, according to the date at which a record of each instrument is indorsed on the certificate, and not according to the date of the instrument creating the mortgage :
- (6.) Subject to the foregoing rules every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate :
- (7.) The discharge of any mortgage so registered on the certificate may be endorsed thereon by any registrar or *British* consular officer, upon the production of such evidence as is hereby required to be produced to the registrar on the entry of the discharge of a mortgage in the register

register book ; and upon such endorsement being made, the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had been made :

- (8.) Upon the delivery of any certificate of mortgage to the registrar by whom it was granted he shall, after recording in the register book in such manner as to preserve its priority any unsatisfied mortgage registered thereon, cancel such certificate, and enter the fact of such cancellation in the register book ; and every certificate so cancelled shall be void to all intents.

81. The following rules shall be observed as to certificates of sale ; (that is to say,) Rules as to certificates of sale.

- (1.) No such certificate shall be granted except for the sale of an entire ship :
- (2.) The power shall be exercised in conformity with the directions contained in the certificate :
- (3.) No sale *bonâ fide* made to a purchaser for valuable consideration shall be impeached by reason of the person by whom the power was given dying before the making of such sale :
- (4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no sale *bonâ fide* made to a purchaser for valuable consideration without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given :
- (5.) Any transfer made to a person qualified to be the owner of *British* ships shall be by bill of sale in the form hereinbefore mentioned, or as near thereto as circumstances permit :
- (6.) If the ship is sold to a party qualified to hold *British* ships, the ship shall be registered anew ; but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book :
- (7.) Previously to such registry anew there shall be produced to the registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale and the certificate of registry of such ship :

(8.)

- (8.) Such last mentioned registrar shall retain the certificates of sale and registry, and after having indorsed on both of such instruments an entry of the fact of a sale having taken place, shall forward the said certificates to the registrar of the port appearing on such certificates to be the former port of registry of the ship, and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein :
- (9.) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferree :
- (10.) If the ship is sold to a party not qualified to be the owner of a *British* ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry shall be produced to some registrar or consular officer, who shall retain the certificates of sale and registry, and having indorsed thereon the fact of such ship having been sold to persons not qualified to be owners of *British* ships, shall forward such certificates to the registrar of the port appearing on such certificate of registry to be the port of registry of such ship ; and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered closed, except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein :
- (11.) If upon a sale being made to an unqualified person default is made in the production of such certificates as are mentioned in the last rule, such unqualified person shall be considered by *British* law as having acquired no title to or interest in the ship ; and further, the party upon whose application such certificate was granted, and the person exercising the power shall each incur a penalty not exceeding one hundred pounds :
- (12.) If no sale is made in conformity with the certificate of sale, such certificate shall be delivered to the registrar by whom the same was granted ; and such registrar shall thereupon cancel it, and enter the fact of such cancellation in the register book ; and every certificate so cancelled shall be void to all intents.

82. Upon proof at any time to the satisfaction of the commissioners of customs that any certificate of mortgage or sale is lost or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then upon proof of the several matters and things that have been done thereunder, it shall be lawful for the registrar, with the sanction of the said commissioners as circumstances may require, either to issue a new certificate, or to direct such entries to be made in the register book, or such other matter or thing to be done as might have been made or done if no such loss or obliteration had taken place.

Power of Commissioners of Customs in case of loss of certificate of mortgage or sale.

83. The registered owner for the time being of any ship or share therein in respect of which a certificate of mortgage or sale has been granted, specifying the place or places where the power thereby given is to be exercised, may by an instrument under his hand made in the form O. in the schedule hereto, or as near thereto as circumstances permit, authorize the registrar by whom such certificate was granted to give notice to the registrar or consular officer, registrars or consular officers, at such place or places, that such certificate is revoked; and notice shall be given accordingly; and all registrars or consular officers receiving such notice shall record the same, and shall exhibit the same to all persons who may apply to them for the purpose of effecting or obtaining a mortgage or transfer under the said certificate of mortgage or sale; and after such notice has been so recorded the said certificate shall, so far as concerns any mortgage or sale to be thereafter made at such place, be deemed to be revoked and of no effect; and every registrar or consular officer recording any such notice shall thereupon state to the registrar by whom the certificate was granted, whether any previous exercise of the power to which such certificate refers has taken place.

Revocation of certificates of mortgage and sale.

Registry anew, and Transfer of Registry.

84. Whenever any registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if such alteration is made at a port where there is a registrar, the registrar of such port, but if made elsewhere, the registrar of the first port having a registrar at which the ship arrives after her alteration, shall, on application made to him, and on the receipt of a certificate from the proper surveyor specifying the nature of such alteration, either retain the old certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or indorse on the existing certificate a memorandum of such alteration, and subscribe his name to such indorsement; and the registrar to whom such application as aforesaid is made, if he is the registrar of the port of registry of the ship, shall himself enter

Alteration in ship to be registered.

enter in his register book the particulars of the alteration so made, and the fact of such new certificate having been granted or indorsement having been made on the existing certificate; but if he is not such last-mentioned registrar, he shall forthwith report such particulars and facts as aforesaid, accompanied by the old certificate of registry in cases where a new one has been granted, to the registrar of the port of registry of the ship, who shall retain such old certificate, (if any), and enter such particulars and facts in his register book accordingly.

On alteration
registry anew
may be requir-
ed.

85. When the registrar to whom application is made in respect of any such alteration as aforesaid is the Registrar of the port of registry, he may, if he thinks fit, instead of registering such alteration, require such ship to be registered anew in manner hereinbefore directed on the first registry of a ship, and if he is not such registrar as lastly hereinbefore mentioned he may nevertheless require such ship to be registered anew, but he shall, in such last mentioned case, grant a provisional certificate or make a provisional indorsement of the alteration made in manner hereinbefore directed in cases where no registry anew is required, taking care to add to such certificate or indorsement a statement that the same is made provisionally, and to insert in his report to the registrar of the port of registry of the ship a like statement.

Grant of provi-
sional certi-
cate in respect
of alteration.

86. Every such provisional certificate, or certificate provisionally indorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, if registered in the United Kingdom, or, if registered elsewhere, at her port of discharge in the *British Possession* within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon cause such ship to be registered anew in the same manner in all respects as hereinbefore required on the first registry of any ship.

Consequence
of omission to
register anew.

87. On failure of such registry anew of any ship or registry of alteration of any ship so altered as aforesaid, such ship shall be deemed not duly registered, and shall no longer be recognized as a *British ship*.

On change of
owners, regis-
try anew may
be granted, if
required.

88. If upon any change of ownership in any ship the owner or owners desire to have such ship registered anew, although such registry anew is not required by this Act, it shall be lawful for the registrar of the port at which such ship is already registered, on the delivery up to him of the existing certificate of registry, and on the other requisites to registry, or such of them as the registrar thinks material, being duly complied with, to make such registry anew, and grant a certificate thereof.

89. The registry of any ship may be transferred from one port to another upon the application of all parties appearing on the register to be interested in such ship, whether as owners or mortgagees, such application to be expressed by a declaration in writing made and subscribed, if the party so required to make and subscribe the same resides at or within five miles of the custom house of the port from which such ship is to be transferred, in the presence of the registrar of such port, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Registry may be transferred from port to port.

90. Upon such application being made as is hereinbefore mentioned, and upon the delivery to him of the certificate of registry, the registrar of the port at which such ship is already registered shall transmit to the registrar of the port at which such ship is intended to be registered notice of such application having been made to him, together with a true copy of all particulars relating to such ship, and the names of all the parties appearing by his book to be interested as owners or mortgagees in such ship; and such last-mentioned registrar shall, upon the receipt of such notice, enter all such particulars and names in his book of registry, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at and belonging to such last-mentioned port, and the name of such last-mentioned port shall be substituted on the stern of such ship in lieu of the name of the port previously appearing thereon.

Manner of transfer of registry.

(See *Imp. Act 18 & 19 Vict., c. 91, s. 12 post.*)

91. The transfer of the registry of any ship in manner aforesaid shall not in any way affect the rights of the several persons interested either as owners or mortgagees in such ship, but such rights shall in all respects be maintained and continue in the same manner as if no such transfer had been effected.

Transfer of registry not to affect rights of owners.

Registry, Miscellaneous.

92. Every person may, upon payment of a fee to be fixed by the commissioners of customs not exceeding one shilling, have access to the register book for the purpose of inspection at any reasonable time during the hours of official attendance of the registrar.

Inspection of register books.

(*The Registrar General of Seamen is substituted for the commissioners of customs in this sec. by Imp. Act 35 & 36 Vict., c. 73, s. 4, post.*)

93. No registrar shall be liable to damages or otherwise for any loss accruing to any person by reason of any act done

Indemnity to registrar.

or

or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

Return to be made by registrars to commissioners of customs.

94. Every registrar in the United Kingdom shall at the expiration of every month, and every other registrar shall without delay, or at such stated times as may be fixed by the commissioners of customs, transmit to the custom house in London a full return in such form as they may direct of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to them in their character of registrars, and the names of the persons who have been concerned in the same, and such other particulars as may be directed by the said Commissioners.

(The Registrar General of Seamen is substituted for the commissioners of customs in this sec. by Imp. Act 35 & 36 Vict., c. 73, s. 4, post, and the returns required by this sec. to be transmitted to the custom house in London are under that sec. to be transmitted to the Registrar General of Seamen.)

Application of fees.

95. All fees authorized to be taken under the second part of this Act shall, if taken in any part of the United Kingdom, be applied in payment of the general expenses of carrying into effect the purposes of such second part, or otherwise as the treasury may direct, but if taken elsewhere shall be disposed of in such way as the executive government of the British possession in which they are taken may direct.

Commissioners of customs to provide, and with consent of Board of Trade may alter forms and issue instructions.

96. The commissioners of customs shall cause the several forms required or authorized to be used by the second part of this Act, and contained in the schedule hereto, to be supplied to all registrars within Her Majesty's Dominions for distribution to the several persons requiring to use the same, either free of charge, or at such moderate prices as they may from time to time direct, and the said Commissioners, with the consent of the Board of Trade, may from time to time make such alterations in the forms contained in the schedule hereto as it may deem requisite, but shall, before issuing any altered form, give such public notice thereof as may be necessary in order to prevent inconvenience; and the said Commissioners may also, with such consent as aforesaid, for the purposes of carrying into effect the provisions contained in the second part of this Act, give such instructions as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence to be required for identifying any person, and generally as to any act or thing to be done in pursuance of the second part of this Act, as they may think it.

(See Imp. Act 18 & 19 Vict., c. 91, sec. 11.)

97. Whenever in any case in which under the second part of this Act any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to the registrar, it is shown to the satisfaction of the registrar that from any reasonable cause such person is unable to make the declaration, or that such evidence cannot be produced, it shall be lawful for the registrar, with the sanction of the commissioners of customs, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such declaration or evidence.

Power to registrar to dispense with declarations and other evidence.

98. In cases where it appears to the commissioners of customs or to the Governor or other person administering the government of any *British Possession*, that by reason of special circumstances it would be desirable that permission should be granted to any *British ship* to pass, without being previously registered, from one port or place in Her Majesty's Dominions to any other port or place within the same, it shall be lawful for such commissioners or Governor or other person to grant a pass accordingly, and such pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

Power for commissioners or Governor in special cases to grant a pass to a ship not registered.

(See the provision made on this subject by *Dom. Stat., 36 Vict., c. 128, s. 9.*)

99. If any person interested in any ship or any share therein is, by infancy, lunacy, or other inability, incapable of making any declaration or doing any thing required or permitted by this Act to be made or done by such incapable person in respect of registry, then the guardian or committee, if any, of such incapable person, or, if there be none, any person appointed by any court or judge possessing jurisdiction in respect of property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person; and all acts done by such substitute shall be as effectual as if done by the person for whom he is substituted.

Provision for cases of infancy or other incapacity.

100. Whenever any person is beneficially interested, otherwise than by way of mortgage, in any ship or share therein registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or by any other Act on owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such pecuniary penalties against both or either of the aforesaid parties, with or without joining the other of them.

Liabilities of owners.

Forgery.

Forgery.

Punishment
for forgery.

101. Any person who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any register book, certificate of surveyor, certificate of registry, declaration of ownership, bill of sale, instrument of mortgage, certificate of mortgage or sale, or any entry or indorsement required by the second part of this Act to be made in or on any of the above documents, shall for every such offence be deemed to be guilty of felony.

(See *Dom. Stat. 32 & 33 Vict., c. 19, s. 4.*)

National Character.

National character of ship to be declared before clearance.

102. No officer of customs shall grant a clearance or *transire* for any ship until the master of such ship has declared to such officer the name of the nation to which he claims that she belongs, and such officer shall thereupon inscribe such name on the clearance or *transire*; and if any ship attempts to proceed to sea without such clearance or *transire*, any such officer may detain her until such declaration is made.

Penalties :

103. The offences hereinafter mentioned shall be punishable as follows; (that is to say,)

For unduly assuming a British character.

(1.) If any person uses the *British* flag and assumes the *British* national character on board any ship owned in whole or in part by any persons not entitled by law to own *British* ships, for the purpose of making such ship appear to be a *British* ship, such ship shall be forfeited to Her Majesty, unless such assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in exercise of some belligerent right; and in any proceeding for enforcing any such forfeiture the burden of proving a title to use the *British* flag and assume the *British* national character shall lie upon the person using and assuming the same :

For concealment of British or assumption of foreign character.

(2.) If the master or owner of any *British* ship does or permits to be done any matter or thing, or carries or permits to be carried any papers or documents, with intent to conceal the *British* character of such ship from any person entitled by *British* law to inquire into the same, or to assume a foreign character, or with intent to deceive any such person as lastly hereinbefore mentioned, such ship shall be forfeited to Her Majesty; and the master, if he commits or is privy to the commission of the offence, shall be guilty of a misdemeanor :

(3.)

- (3.) If any unqualified person, except in the case of such transmitted interests as are hereinbefore mentioned acquires as owner any interest, either legal or beneficial, in a ship, using a *British* flag and assuming the *British* character, such interest shall be forfeited to Her Majesty : For acquiring ownership if unqualified.
- (4.) If any person, on behalf of himself or any other person or body of persons, wilfully makes a false declaration touching the qualification of himself or such other person or body of persons to own *British* ship or any shares therein, the declarant shall be guilty of a misdemeanor; and the ship or share in respect of which such declaration is made, if the same has not been forfeited under the foregoing provision, shall, to the extent of the interest therein of the person making the declaration, and, unless it is shown that he had no authority to make the same, of the parties on behalf of whom such declaration is made, be forfeited to Her Majesty : For false declaration of ownership.

And in order that the above provisions as to forfeitures may be carried into effect, it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any *British* officer of customs, or any *British* consular officer, to seize and detain any ship which has, either wholly or as to any share therein, become subject to forfeiture as aforesaid, and to bring her for adjudication before the high court of admiralty in *England* or *Ireland*, or any court having admiralty jurisdiction in Her Majesty's Dominions; and such court may thereupon make such order in the case as it may think fit, and may award to the officer bringing in the same for adjudication such portion of the proceeds of the sale of any forfeited ship or share as it may think right.

(See also *Imp. Act 18 & 19 Vict., c. 91, s. 9, post.*)

104. No such officer as aforesaid shall be responsible, either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the judge or court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown, such judge or court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as it thinks just. Officer not liable for any seizure made on reasonable grounds.

105. If any colours usually worn by Her Majesty's ships, or any colours resembling those of Her Majesty, or any distinctive Penalty for carrying improper colours.

inctive national colours, except the red ensign usually worn by merchant ships, or except the Union Jack with a white border, or if the pendant usually carried by Her Majesty's ships or any pendant in anywise resembling such pendant, are or is hoisted on board any ship or boat belonging to any subject of Her Majesty without warrant for so doing from Her Majesty, or from the admiralty, the master of such ship or boat, or the owner thereof, if on board the same, and every other person hoisting or joining or assisting in hoisting the same, shall for every such offence incur a penalty not exceeding five hundred pounds; and it shall be lawful for any officer on full pay in the military or naval service of Her Majesty, or any *British* officer of the customs or any *British* consular officer, to board any such ship or boat, and to take away any such jack, colours, or pendant; and such jack, colours, or pendant shall be forfeited to Her Majesty.

Effect of declaration in the Act that a ship shall not be recognized as a *British* ship.

106. Whenever it is declared by this Act that a ship belonging to any person or body corporate qualified according to this Act to be owners of *British* ships shall not be recognized as a *British* ship, such ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by *British* ships, and shall not be entitled to use the *British* flag or assume the *British* national character; but, so far as regards the payment of dues, the liability to pains and penalties, and the punishment of offences committed on board such ship or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognized *British* ship.

Evidence.

Copies of registers and declarations to be admissible in evidence, and to be *prima facie* proof of certain things.

107. Every register of or declaration made in pursuance of the second part of this Act in respect of any *British* ship may be proved in any court of justice, or before any person having by law or by consent of parties authority to receive evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the registrar or other person having the charge of the original; which certified copies he is hereby required to furnish to any person applying at a reasonable time for the same, upon payment of one shilling for each such certified copy; and every such register or copy of a register, and also every certificate of registry of any *British* ship, purporting to be signed by the registrar or other proper officer, shall be received in evidence in any court of justice or before any person having by law or by consent of parties authority to receive evidence as *prima facie* proof of all the matters contained or recited in such register when the register or such copy is produced, and of all the matters contained in or indorsed on such certificate of registry, and
purporting

purporting to be authenticated by the signature of a registrar, when such certificate is produced.

(See *Imp. Act 18 & 19 Vict., c. 91, s. 15, post.*)

(*Sec. 108 refers only to ships built and trading in the East Indies.*)

PART III.

MASTERS AND SEAMEN.

Application.

109. The various provisions of the third part of this Act shall have the following applications, unless the context or subject matter requires a different application: (that is to say,) Application of Part III. of Act.

So much of the third part of this Act as relates to the delivery or transmission of lists of crews to the registrar general of seamen shall apply to all fishing vessels belonging to the United Kingdom, whether employed exclusively on the coasts of the United Kingdom or not; to all ships belonging to the *Trinity House*, or the commissioners of northern lighthouses, constituted as hereinafter mentioned, or the port of *Dublin* corporation, and to all pleasure yachts, and to the owners, masters, and crews of such ships. Return for certain ships belonging to the United Kingdom.

So much of the third part of this Act as relates to the delivery and transmission of lists of crews, and to the wages and effects of deceased seamen and apprentices, shall apply to all sea-going *British* ships, wherever registered, of which the crews are discharged, or whose final port of destination is in the United Kingdom, and to the owners, masters, and crews of such ships: Returns and wages of deceased seamen in certain Colonial ships.

So much of the third part of this Act as relates to the shipping and discharge of seamen in the United Kingdom shall apply to all sea-going *British* ships, wherever registered, and to the owners, masters, and crews of such ships: Shipping and discharging men in the United Kingdom.

So

Volunteering
into the Navy.

So much of the third part of this Act as relates to seamen volunteering into the Royal Navy shall apply to all sea-going *British* ships, wherever registered, and to the owners, masters, and crews of such ships, wherever the same may be :

Provisions ap-
plicable to Co-
lonial ships.

So much of the third part of this Act as relates to rights to wages and remedies for the recovery thereof ; to the shipping and discharge of seamen in foreign ports ; to leaving seamen abroad, and to the relief of seamen in distress in foreign ports ; to the provisions, health and accommodation of seamen ; to the power of seamen to make complaints ; to the protection of seamen from imposition ; to discipline ; to naval courts on the high seas and abroad ; and to crimes committed abroad ; shall apply to all ships registered in any of Her Majesty's Dominions abroad, when such ships are out of the jurisdiction of their respective governments, and to the owners, masters, and crews of such ships :

As to whole of
Part III. of
Act.

And the whole of the third part of this Act shall apply to all sea-going ships registered in the United Kingdom, (except such as are exclusively employed in fishing on coasts of the United Kingdom, and such as belong to the *Trinity House*, the commissioners of northern light-houses, or the port of *Dublin* corporation, and also except pleasure yachts,) and also to all ships registered in any *British* Possession and employed in trading or going between any place in the United Kingdom and any place or places not situate in the Possession in which such ships are registered, and to the owners, masters, and crews of such ships respectively, wherever the same may be.

(See *Imp. Act 25 & 26 Vict., c. 63, s. 13 post.*)

Local Marine Boards.

Constitution
of local marine
boards.

110. There shall be local marine boards for carrying into effect the provisions of this Act under the superintendence of the board of trade at those seaports of the United Kingdom at which local marine boards have heretofore been established, and at such other places as the board of trade appoints for this purpose ; and each of such local marine boards shall be constituted as follows ; (that is to say,) the mayor or Provost and stipendiary magistrate or such of the mayors or provosts and stipendiary magistrates of the place (if more than one) as the board of trade appoints shall be a member or members *ex officio* ; the board of trade shall appoint four members from persons residing or having places of at the port or within seven miles thereof ; and the owners of foreign-going ships and of home trade passenger ships registered

tered at the port shall elect six members ; and such elections as aforesaid shall take place on the twenty-fifth day of *January* one thousand eight hundred and fifty-seven, and on the twenty-fifth day of *January* in every third succeeding year, and such appointments as aforesaid shall take place within one month after such elections ; and upon the conclusion of such month and the constitution of a new board, the functions of the then existing board shall cease, and the board consisting of the members then newly elected and appointed shall take its place ; and any occasional vacancy caused in the intervals between the general elections and appointments, by death, resignation, disqualification, or otherwise, shall be filled up within one month after it occurs ; and every person elected or appointed on an occasional vacancy shall continue a member until the next constitution of a new board ; and the mayor or provost shall fix the place and mode of conducting all such elections as aforesaid, and also on occasional vacancies the day of election, and shall give at least ten days notice thereof ; and the board of trade shall have power to decide any questions raised concerning any such elections.

111. Owners of foreign-going ships and of home trade passenger ships registered at any seaport at which there is a local marine board shall have votes at the election of members of such board as follows ; (that is to say,) every registered owner of not less than two hundred and fifty tons in the whole of such shipping shall at every election have one vote for each member for every two hundred and fifty tons owned by him, so that his votes for any one member do not exceed ten ;

Qualification
of voters for
members of local
marine
boards.

And for the purpose of ascertaining the qualification of such electors the following rules shall be observed ; (that is to say),

In the case of a ship registered in the name of one person, such person shall be deemed to be the owner :

And in the case of a ship registered in distinct and several shares in the names of more persons than one, the tonnage shall be apportioned among the owners as nearly as may be in proportion to their respective shares, and each of such persons shall be deemed to be the owner of the tonnage so apportioned to him :

And in the case of a ship or shares of a ship registered jointly without severance of interest in the names of more persons than one, the tonnage shall, if it is sufficient, either alone or together with other tonnage (if any) owned by such joint owners, to give a qualification to each of them, be apportioned equally between the joint owners, and each of such joint owners shall be deemed to be the owner of the equal share

share so apportioned to him, but if it is not so sufficient, the whole of such tonnage shall be deemed to be owned by such one of the joint owners resident or having a place of business at the port or within seven miles thereof as is first named on the register :

And in making any such apportionment as aforesaid any portion may be struck off so as to obtain a divisible amount ; and the whole amount of tonnage so owned by each person, whether in ships or shares of or interests in ships, shall be added together, and, if sufficient, shall constitute his qualification.

Lists of such voters to be made.

112. The collector or comptroller of customs in every seaport of the United Kingdom at which there is a local marine board shall, with the assistance of the registrar general of seamen, on or before the twenty-fifth day of *December* in the year one thousand eight hundred and fifty-six, and in every third succeeding year, make out an alphabetical list of the persons entitled by virtue of this Act to vote at the election of members of such local marine board, containing the Christian name, surname, and residence of each such person, and the number of votes to which he is entitled, and shall sign such list, and cause a sufficient number of copies thereof to be printed, and to be fixed on or near the doors of the custom house at such seaport for two entire weeks next after such list has been made, and shall keep true copies of such list, and permit the same to be perused by any person, without payment of any fee, at all reasonable hours during such two weeks.

Revision of list of voters.

113. The mayor or provost of every seaport at which there is a local marine board, or such of them, if more than one, as is or are for the time being so appointed as aforesaid, shall at least twenty days before the twenty-fifth day of *January*, in the year one thousand eight hundred and fifty-seven, and in each succeeding third year, nominate two justices of the peace to revise the said lists ; and such justices shall, between the eighth and fifteenth days of *January* both inclusive in the year in which they are so nominated, revise the said list at the custom house of the port, or in some convenient place near thereto, to be hired, if necessary, by the said collector or comptroller, and shall give three clear days notice of such revision by advertising the same in some local newspaper, and by affixing a notice thereof on or near to the doors of such custom house, and shall make such revision by inserting in such list the name of every person who claims to be inserted therein, and gives proof satisfactory to the said revisors of his right to have his name so inserted, and by striking out therefrom the name of every person to the insertion of which an objection is made by any other person named in such list who gives proof satisfactory to the said revisors that the name of

of the person so objected to ought not to have been inserted therein ; and the decision of the said revisors with respect to every such claim or objection shall be conclusive ; and the said revisors shall immediately after such revision sign their names at the foot of the list so revised ; and such list so revised shall be the register of voters at elections of members of the local marine board, of such seaport for three years from the twenty-fifth day of *January* then next ensuing inclusive to the twenty-fourth day of *January* inclusive in the third succeeding year ; and the said revised list, when so signed, shall be delivered to such mayor or provost as aforesaid of the place, who shall, if necessary, cause a sufficient number of copies thereof to be printed, and shall cause a copy to be delivered to every voter applying for the same.

114. The said collector or comptroller, if required, shall for the assistance of the said revisors in revising the said list produce to them the books containing the register of ships registered at such seaport ; and the registrar general of seamen, if required, shall also produce or transmit to such revisors such certified extracts or returns from the books in his custody as may be necessary for the same purpose.

Registers to be produced.

115. The two justices aforesaid shall certify all expenses properly incurred by any such collector or comptroller as aforesaid in making and printing the said list and in the revision thereof, and the board of trade shall pay the same, and also all expenses properly incurred by any such mayor or provost as aforesaid in printing the same or in elections taking place under this Act ; and the said board may disallow any items of any such expenses as aforesaid which it deems to have been improperly incurred.

Expenses to be paid by board of trade.

116. Every person whose name appears on such revised list, and no other person, shall be qualified to vote at the election of members of the local marine board at such seaport to be held on the twenty-fifth day of *January* next after the revision of such list, and at any occasional election held at any time between that day and the next ordinary triennial election of the members of such board.

Persons on revised list qualified to vote.

117. Every male person who is according to such revised list of the voters at any seaport entitled to a vote shall be qualified to be elected a member of the local marine board of such seaport, and no other person shall be so qualified ; and if any person elected as a member after such election ceases to be an owner of such quantity of tonnage as would entitle him to a vote, he shall no longer continue to act or be considered as a member, and thereupon another member shall be elected in his place.

Qualification of members of local marine boards.

118. No act of any local marine board shall be vitiated or prejudiced by reason of any irregularity in the election of any

Error in elections not to vitiate acts done.

of

of its members, or of any error in the list of voters herein mentioned, or of any irregularity in the making or revising of such list, or by reason of any person who is not duly qualified as herein-before directed acting upon such board.

Minutes and business of local marine boards.

119. Every local marine board shall keep minutes of its proceedings, and the same shall be kept in such mode (if any) as the board of trade prescribes; and such minutes, and all books or documents used or kept by any local marine board, or by any examiners, shipping masters, or other officers or servants under the control of any local marine board, shall be open to the inspection of the board of trade and its officers; and every local marine board shall make and send to the board of trade such reports and returns as it requires; but, subject as aforesaid, every local marine board may regulate the mode in which its meetings are to be held and its business conducted.

(See *Imp. Act 25 & 26 Vict., c. 63, s. 14.*)

If any local marine board fails to discharge its duties, board of trade may assume its duties, or direct a new election.

120. If any local marine board, by reason of any election not taking place, or of the simultaneous resignation or continued non-attendance of all or the greater part of the members or from any other cause, fails to meet or to discharge its duties, the board of trade may in its discretion either take into its own hands the performance of the duties of such local marine board until the next triennial appointment and election thereof, or direct that a new appointment and election of such local marine board shall take place immediately.

Board of trade, on complaint, may alter arrangements made by local marine boards.

121. If upon complaint made to the board of trade it appears to such board that any appointments or arrangements made by any local marine board under the powers hereby given to it are not such as to meet the wants of the port, or are in any respect unsatisfactory or improper, the board of trade may annul, alter, or rectify such appointments or arrangements in such manner as, having regard to the intentions of this Act and to the wants of the port, it deems to be expedient.

Shipping offices.

Local marine boards to establish shipping offices.

122. In every seaport in the United Kingdom in which there is a local marine board such board shall establish a shipping office or shipping offices, and may for that purpose, subject as herein mentioned, procure the requisite premises, and appoint and from time to time remove and re-appoint superintendents of such offices, to be called shipping masters, with any necessary deputies, clerks, and servants, and regulate the mode of conducting business at such offices, and shall, subject as herein mentioned, have complete control over the

the same; and every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping master.

(See *Imp. Act 25 & 26 Vict., c. 63, s. 15.*)

123. The sanction of the board of trade shall be necessary as far as regards the number of persons so appointed by any such local marine board, and the amount of their salaries and wages and all other expenses; and the board of trade shall have the immediate control of such shipping offices, so far as regards the receipt and payment of money thereat; and all shipping masters, deputies, clerks, and servants so appointed as aforesaid shall before entering upon their duties give such security (if any) for the due performance thereof as the board of trade requires; and if in any case the board of trade has reason to believe that any shipping master, deputy, clerk, or servant appointed by any local marine board does not properly discharge his duties, the board of trade may cause the case to be investigated, and may, if it thinks fit so to do, remove him from his office, and may provide for the proper performance of his duties until another person is properly appointed in his place.

Board of trade to have partial control over shipping offices.

124. It shall be the general business of shipping masters appointed as aforesaid—

Business of such offices generally.

To afford facilities for engaging seamen by keeping registries of their names and characters;

To superintend and facilitate their engagement and discharge in manner hereinafter mentioned;

To provide means for securing the presence on board at the proper times of men who are so engaged;

To facilitate the making of apprenticeships to the sea service;

To perform such other duties relating to merchant seamen and merchant ships as are hereby or may hereafter under the powers herein contained be committed to them.

125. Such fees, not exceeding the sums specified in the table marked P. in the schedule hereto, as are from time to time fixed by the board of trade, shall be payable upon all engagements and discharges effected before shipping masters as hereinafter mentioned, and the board of trade shall cause scales of the fees payable for the time being to be prepared and to be conspicuously placed in the shipping offices; and all shipping masters, their deputies, clerks, and servants, may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

Fees to be paid upon engagements and discharges.

Masters to pay fees and to deduct part from wages.

126. Every owner or master of a ship engaging or discharging any seamen or seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked Q, in the schedule hereto : provided, that if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

Proviso as to excess.

Penalty on shipping masters taking other remuneration.

127. Any shipping master, deputy shipping master, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding twenty pounds, and shall also be liable to be dismissed from his office by the board of trade.

Business of shipping offices may be transacted at Custom houses

128. The board of trade may, with the consent of the commissioners of customs, direct that at any place in which no separate shipping office is established the whole or any part of the business of the shipping office shall be conducted at the custom house, and thereupon the same shall be there conducted accordingly ; and in respect of such business such custom house shall for all purposes be deemed to be a shipping office, and the officer of customs there to whom such business is committed shall for all purposes be deemed to be a shipping master within the meaning of this Act.

In London sailors' homes may be shipping offices.

129. The board of trade may appoint any superintendent of or other person connected with any sailors' home in the port of *London* to be a shipping master, with any necessary deputies, clerks, and servants, and may appoint any office in any such home to be a shipping office ; and all shipping masters and shipping offices so appointed shall be subject to the immediate control of the board of trade and not of the local marine board of the port.

Dispensation with shipping master's superintendence.

130. The board of trade may from time to time dispense with the transaction before a shipping master or in a shipping office of any matters required by this Act to be so transacted ; and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or in a shipping office.

Examinations and Certificates of Masters and Mates.

Examinations to be instituted for masters and mates.

131. Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships, or of

of home trade passenger ships, or who wish to procure certificates of competency hereinafter mentioned; and subject as herein mentioned, the local marine boards shall provide for the examinations at their respective ports, and may appoint and from time to time remove and re-appoint examiners to conduct the same, and may regulate the same; and any members of the local marine board of the place where the examination is held may be present and assist at any such examination.

(Imp. Act 25 & 26 Vict., c. 63, s. 17, provides for the examination of masters and mates at ports where there are no local marine boards.)

132. The board of trade may from time to time lay down rules as to the conduct of such examinations and as to the qualifications of the applicants, and such rules shall be strictly adhered to by all examiners; and no examiner shall be appointed unless he possesses a certificate of qualification, to be from time to time granted or renewed by the board of trade; and the sanction of the board of trade shall be necessary, so far as regards the number of examiners to be appointed, and the amount of their remuneration; and the board of trade may at any time depute any of its officers to be present and assist at any examination; and if it appears to the board of trade that the examinations for any two or more ports can be conducted without inconvenience by the same examiners, it may require and authorize the local marine boards of such ports to act together as one board in providing for and regulating examinations and appointing and removing examiners for such ports.

Powers of
board of trade
over examina-
tions.

133. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked R. in the schedule hereto, as the board of trade directs; and such fees shall be paid to such persons as the said board appoints for that purpose.

Fees to be
paid by appli-
cants for ex-
amination.

134. Subject to the proviso herein-after contained, the board of trade shall deliver to every applicant who is duly reported by the local examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master, or as first, second, or only mate of a foreign-going ship, or as master or mate of a home trade passenger ship, as the case may be:

Certificates of
competency to
be granted to
those who
pass.

Provided that in every case in which the board of trade has reason to believe such report to have been unduly made, such board may remit the case either to the same or to any other examiners,

examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate.

Certificates of service to be delivered to persons who served as masters or mates before 1851, and to certain naval officers; and certificates of service for home trade passenger ships to be delivered to persons who have served as masters or mates in such ships before 1st January 1854.

135. Certificates of service, differing in form from certificates of competency, shall be granted as follows; (that is to say),

- (1.) Every person who before the first day of *January* one thousand eight hundred and fifty-one served as master in the *British* merchant service, or who has attained or attains the rank of lieutenant, master, passed mate, or second master, or any higher rank in the service of Her Majesty or of the *East India* Company, shall be entitled to a certificate of service as master for foreign-going ships :
- (2.) Every person who before the first day of *January* one thousand eight hundred and fifty-one served as mate in the *British* merchant service shall be entitled to a certificate of service as mate for foreign-going ships :
- (3.) Every person who before the first day of *January* one thousand eight hundred and fifty-four has served as master of a home trade passenger ship shall be entitled to a certificate of service as master for home trade passenger ships :
- (4.) Every person who before the first day of *January* one thousand eight hundred and fifty-four has served as mate of a home trade passenger ship shall be entitled to a certificate of service as mate for home trade passenger ships :

And each of such certificates of service shall contain particulars of the name, place, and time of birth, and of the length and nature of the previous service of the person to whom the same is delivered; and the board of trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

No foreign-going ship or home trade passenger ship to proceed to sea without certificates of the master and mates.

136. No foreign-going ship or home trade passenger ship shall go to sea from any port in the United Kingdom unless the master thereof, and in the case of a foreign-going ship the first and second mates or only mate (as the case may be), and in the case of a home trade passenger ship the first or only mate, (as the case may be), have obtained and possess valid certificates either of competency or service appropriate to their several stations in such ship, or of a higher grade :
and

and no such ship, if of one hundred tons burden or upwards, shall go to sea as aforesaid, unless at least one officer besides the master has obtained and possesses a valid certificate appropriate to the grade of only mate therein or to a higher grade; and every person who, having been engaged to serve as master or as first or second or only mate of any foreign-going ship, or as master or first or only mate of a home trade passenger ship, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, or who employ any person as master, or first, second, or only mate of any foreign-going ship, or as master or first or only mate of a home trade passenger ship, without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence incur a penalty not exceeding fifty pounds.

(Imp. Act 25 & 26 Vict.. c. 63, s. 5, provides that every steamship which is by this Act required to have a master possessing a certificate shall also have an engineer possessing a certificate; and sections 5-12 of that Act provides for the examination of and granting of certificates to engineers.)

137. Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home trade passenger ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last mentioned ship; but no certificate for a home trade passenger ship shall entitle the holder to go to sea as a master or mate of a foreign-going ship.

Certificates for foreign-going ships available for home trade passenger ships.

138. All certificates whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded by the registrar general of seamen or by such other person as the board of trade appoints for that purpose; and the board of trade shall give to such registrar or such other person immediate notice of all orders made by it for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained; and the registrar or such other person as aforesaid shall thereupon make a corresponding entry in the record of certificates; and a copy purporting to be certified by such registrar or his assistant, or by such person as aforesaid of any certificate shall be *prima facie* evidence of such certificate and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be *prima facie* evidence of the truth of the matters stated in such entry.

The registrar to record grants, cancellations, &c., of certificates.

Duplicates and entries to be evidence.

139. Whenever any master or mate proves to the satisfaction of the board of trade that he has, without fault on his part, lost or been deprived of any certificate already granted

In case of loss a copy to be granted.

to him, the board of trade shall, upon payment of such fee (if any) as it directs, cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, to be made out and certified as aforesaid, and to be delivered to him; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

Penalties for false representations;

for forging or altering or fraudulently using or lending any certificate.

140. Every person who makes, or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or for any other person a certificate either of competency or service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or any official copy of any such certificate or who fraudulently makes use of any such certificate or any copy of any such certificate which is forged, altered, cancelled, suspended, or to which he is not justly entitled, or who fraudulently lends his certificate to or allows the same to be used by any other person, shall for each offence be deemed guilty of a misdemeanor.

Apprenticeships to the Sea Service.

Shipping masters to assist in binding apprentices, and may receive fees.

141. All shipping masters appointed under this Act shall, if applied to for the purpose, give to any board of guardians, overseers, or other persons desirous of apprenticing boys to the sea service, and to masters and owners of ships requiring apprentices, such assistance as is in their power for facilitating the making of such apprenticeships, and may receive from persons availing themselves of such assistance such fees as may be determined in that behalf by the board of trade, with the concurrence, so far as relates to pauper apprentices in *England*, of the poor law board in *England*, and so far as relates to pauper apprentices in *Ireland*, of the poor law commissioners in *Ireland*.

Indentures of boys bound apprentices to sea service by guardians or overseers to be witnessed by two justices.

142. In the case of every boy bound apprentice to the sea service by any guardians or overseers of the poor, or other persons having the authority of guardians of the poor, the indentures shall be executed by the boy and the person to whom he is bound in the presence of and shall be attested by two justices of the peace, who shall ascertain that the boy has consented to be bound, and has attained the age of twelve years, and is of sufficient health and strength, and that the master to whom the boy is to be bound is a proper person for the purpose.

Indentures of apprenticeship to be exempt from stamp duty and to be recorded.

143. All indentures of apprenticeship to the sea service shall be exempt from stamp duty; and all such indentures shall be in duplicate; and every person to whom any boy whatever is bound as an apprentice to the sea service in the United Kingdom shall within seven days after the execution of

of the indentures take or transmit the same to the registrar general of seamen or to some shipping master ; and the said registrar or shipping master shall retain and record one copy, and shall indorse on the other that the same has been recorded, and shall re-deliver the same to the master of the apprentice ; and whenever any such indenture is assigned or cancelled, and whenever any such apprentice dies or deserts, the master of the apprentice shall, within seven days after such assignment, cancellation, death, or desertion, if the same happens within the United Kingdom, or if the same happens elsewhere so soon afterwards as circumstances permit, notify the same either to the said registrar of seamen, or to some shipping master, to be recorded ; and every person who fails to comply with the provisions of this section shall incur a penalty not exceeding ten pounds.

(Secs. 144 & 145 related only to the apprenticeship of paupers in Great Britain and Ireland.)

Engagement of Seamen.

(See Dom. Act, 38 Vict., c. 29.)

146. The board of trade may grant to such persons as it thinks fit license to engage or supply seamen or apprentices for merchant ships in the United Kingdom, to continue for such periods, to be upon such terms, and to be revocable upon such conditions, as such board thinks proper.

Board of trade
may license
persons to pro-
cure seamen.

147. The following offences shall be punishable as herein-
after mentioned ; (that is to say,)

Penalties :

- (1.) If any person not licensed as aforesaid, other than the owner or master or a mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds :
- (2.) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds, and, if licensed, shall in addition forfeit his license :
- (3.) If any person knowingly receives or accepts to be entered on board any ship any seaman or apprentice who has been engaged or supplied contrary to the provisions of this

for supplying
seamen with-
out license ;

for employing
unlicensed
persons ;

for receiving
seamen illegal-
ly supplied.

this Act, he shall for every seaman and apprentice so engaged or supplied incur a penalty not exceeding twenty pounds.

Penalty for receiving remuneration from seamen for shipping them.

148. If any person demands or receives, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence incur a penalty not exceeding five pounds.

Agreements to be made with seamen, containing certain particulars.

149. The master of every ship, except ships of less than eighty tons registered tonnage exclusively employed in trading between different ports on the coasts of the United Kingdom, shall enter into an agreement with every seaman whom he carries to sea from any port in the United Kingdom as one of his crew in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the board of trade, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, (that is to say,)

- (1.) The nature, and, as far as practicable, the duration of the intended voyage or engagement:
- (2.) The number and description of the crew, specifying how many are engaged as sailors:
- (3.) The time at which each seaman is to be on board or to begin work:
- (4.) The capacity in which each seaman is to serve:
- (5.) The amount of wages which each seaman is to receive:
- (6.) A scale of the provisions which are to be furnished to each seaman:
- (7.) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the board of trade as regulations proper to be adopted and which the parties agree to adopt:

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case, as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law:

Provided

Provided that if the master of any ship belonging to any *British Possession* has an agreement with his crew made in due form according to the Law of the Possession to which such ship belongs or in which her crew were engaged, and engages single seamen in the United Kingdom, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form sanctioned by the board of trade.

Proviso as to forms for Colonial ships.

(*Sec. Imp. Act 36 & 37 Vict., c. 85, s. 7.*)

150. In the case of all foreign-going ships, in whatever part of Her Majesty's Dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say,)

For foreign-going ships such agreements, when made in the United Kingdom, except in special cases to be made, before and attested by a shipping master;

(1.) Every agreement made in the United Kingdom (except in such cases of agreements with substitutes as are hereinafter specially provided for) shall be signed by each seaman in the presence of a shipping master :

(2.) Such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature :

(3.) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master :

To be in duplicate;

(4.) In the case of substitutes engaged in the place of seamen who have only signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping master duly appointed in the manner hereinbefore specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

Provisions for substitutes.

151. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages,

Foreign-going ships making short voyages may have running agreements.

voyages, so that no such agreement shall extend beyond the next following thirtieth day of *June* or thirty-first day of *December* or the first arrival of the ship at her port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in the United Kingdom, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.

Engagement and discharge of seamen in the meantime.

152. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in the United Kingdom before the final termination of the agreement, discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return indorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required, and shall deliver the agreement so indorsed to the shipping master; and any master who wilfully makes a false statement in such indorsement shall incur a penalty not exceeding twenty pounds; and the shipping master shall also sign an indorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so indorsed to the master.

Duplicates of running agreements, how to be dealt with.

153. In cases in which such running agreements are made, the duplicate agreement retained by the shipping master upon the first engagement of the crew shall either be transmitted to the registrar general of seamen immediately, or be kept by the shipping master until the expiration of the agreement, as the board of trade directs.

Fees to be paid on such running agreements.

154. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In home trade ships agreement to be entered into before a ship-

155. In the case of home trade ships, crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the manner hereinbefore directed with respect

respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

Shipping master or other witness.

156. In cases where several home trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but with the foregoing exception all provisions herein contained which relate to ordinary agreements for home trade ships shall be applicable to agreements made in pursuance of this section.

Special agreements for home trade ships belonging to same owners.

157. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master in the case of a foreign-going ship, and the master or owner in the case of a home trade ship, shall for each such offence incur a penalty not exceeding five pounds.

Penalty for shipping seamen without agreement duly executed.

158. The master of every foreign-going ship of which the crew has been engaged before a shipping master shall before finally leaving the United Kingdom sign and send to the nearest shipping master a full and accurate statement, in a form sanctioned by the board of trade, of every change which takes place in his crew before finally leaving the United Kingdom, and in default shall for each offence incur a penalty not exceeding five pounds; and such statement shall be admissible in evidence, subject to all just exceptions.

Changes in crew to be reported.

159. Every master of a ship who, if such ship is registered in the United Kingdom, engages any seaman in any *British Possession*, or if such ship belongs to any *British Possession*, engages any seaman in any *British Possession* other than that to which the ship belongs, shall, if there is at the place where such seaman is engaged any official shipping master or other officer duly appointed for the purpose of shipping seamen, engage such seaman before such shipping master, and if there is no such shipping master or officer, then before some officer of customs; and the same rules, qualifications, and penalties, as are hereinbefore specified with respect to the engagement of seamen before shipping masters in the United Kingdom, shall apply to such engagements in a *British Possession*; and upon every such engagement such

Seamen engaged in the colonies to be shipped before some shipping master or officer of customs.

shipping

shipping master or officer as aforesaid shall indorse upon the agreement an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and if in any case such attestation is not made, the burden of proving that the seaman was duly engaged as hereby required shall lie upon the master.

Seamen engaged in foreign ports to be shipped with the sanction and in the presence of the consul.

160. Every master of a *British* ship who engages any seaman at any place out of Her Majesty's Dominions in which there is a *British* consular officer shall, before carrying such seaman to sea, procure the sanction of such officer, and shall engage such seaman before such officer; and the same rules as are hereinbefore contained with respect to the engagement of seamen before shipping masters in the United Kingdom, shall apply to such engagements made before consular officers; and upon every such engagement the consular officer shall indorse upon the agreement his sanction thereof, and an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and every master who engages any seaman in any place in which there is a consular officer, otherwise than as hereinbefore required, shall incur a penalty not exceeding twenty pounds; and if in any case the indorsement and attestation hereby required is not made upon the agreement, the burden of proving the engagement to have been made as hereinbefore required shall lie upon the master.

Rules as to production of agreements and certificates of masters and mates of foreign-going ships.

161. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships; (that is to say,)

- (1.) The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed the certificates of competency or service which the said master and his first and second mate or only mate, as the case may be, are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping master shall sign and give to the master a certificate to that effect:
- (2.) In the case of running agreements for foreign-going ships the shipping master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any first, second, or only mate then first engaged by him, a certificate to that effect:

(3.)

- (3.) The master of every foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping master as aforesaid to the collector or comptroller of customs, and no officer of customs shall clear any such ship outwards without such production ; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced :
- (4.) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place ; and such shipping master shall thereupon give to the master a certificate of such delivery ; and no officer of customs shall clear any foreign-going ship inwards without the production of such certificate :

And if the master of any foreign-going ship fails to deliver the agreement to a shipping master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding five pounds.

162. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home trade ships ; (that is to say,)

Rules as to
production of
agreements
and certifi-
cates for home
trade ships.

- (1.) In the case of home trade ships of more than eighty tons burden, no agreement shall extend beyond the next following thirtieth day of *June* or thirty-first day of *December*, or the first arrival of the ship at her final port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival :
- (2.) The master or owner of every such ship shall, within twenty-one days after the thirtieth day of *June* and the the thirty-first day of *December* in every year, transmit or deliver to some shipping master in the United Kingdom every agreement made within the six calendar months next preceding such days respectively, and shall also in the case of home trade passenger ships produce to the shipping master the certificates of competency or service which the said master, and his first and only mate, as the case may be, are hereby required to possess :
- (3.) The shipping master shall thereupon give to the master or owner a certificate of such delivery and production ; and no officer of customs shall grant a clearance or *transire* for any such ship as last aforesaid without the production

production of such certificate ; and if any such ship attempts to ply or go to sea without such clearance or *transire*, any such officer may detain her until the said certificate is produced :

And if the agreement for any home trade ship is not delivered or transmitted by the master or owner to a shipping master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding five pounds.

Alterations to be void unless attested to have been made with the consent of all parties.

163. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by the third part of this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's Dominions) of some shipping master, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's Dominions) of a *British* consular officer, or where there is no such officer, of two respectable *British* merchants.

Penalty for falsifying agreement.

164. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes or assists in making, or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement, shall for each such offence be deemed guilty of a misdemeanor.

Seamen not to be bound to produce agreement.

165. Any seaman may bring forward evidence to prove the contents of any agreement or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Copy of agreement to be made accessible to crew.

166. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement (omitting the signatures) to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding five pounds.

Seamen discharged before voyage to have compensation.

167. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing

hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Allotment of Wages.

168. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made; and all allotment notes shall be in forms sanctioned by the board of trade.

Regulations as to allotment notes.

169. The wife, or the father or mother, or the grandfather or grandmother, or any child or grandchild, or any brother or sister of any seaman in whose favour an allotment note of part of the wages of such seaman is made, may, unless the seaman is shown in manner hereinafter mentioned, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, and subject, as to the wife, to the provision hereinafter contained, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note, either in the county court or in the summary manner in which seamen are by this Act enabled to sue for and recover wages not exceeding fifty pounds; and in any such proceeding it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Allotment notes may be sued on summarily by certain persons and under certain conditions.

Provided that the wife of any seaman who deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall thereupon forfeit all right to further payments of any allotment of his wages which has been made in her favour.

Discharge and Payment of Wages.

(See *Dom. Act*, 38 Vict., c. 29.)

170. In the case of all British foreign-going ships, in whatever part of Her Majesty's Dominions the same are registered,

Discharge from foreign-going ships to

be made before
shipping master.

registered, all seamen discharged in the United Kingdom shall be discharged and receive their wages in the presence of a shipping master duly appointed under this Act, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or, except as aforesaid, pays his wages within the United Kingdom in any other manner, shall incur a penalty not exceeding ten pounds; and in the case of home trade ships seamen may, if the owner or master so desires, be discharged, and receive their wages in like manner.

Master to deliver account
of wages.

171. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping master, to such shipping master a full and true account, in a form sanctioned by the board of trade, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding five pounds; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge,
masters to give
seamen certificates
of discharge, and
return certificate
of competency or
service to
mates.

172. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the board of trade, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding ten pounds; and the master shall also, upon the discharge of every certificated mate, whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding twenty pounds.

Shipping master
may decide
questions
which parties
refer to him.

173. Every shipping master shall hear and decide any question whatever between a master or owner and any of his crew, which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any court of justice, be deemed to be conclusive as to the rights of the parties; and no such submission or award shall require a stamp; and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

174. In any proceeding relating to the wages, claims, or discharge of any seaman, carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the shipping master, does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding five pounds.

Master and others to produce ship's papers to shipping masters and give evidence.

175. The following rules shall be observed with respect to the settlement of wages; (that is to say,) Settlement of wages.

(1.) Upon the completion before a shipping master of any discharge and settlement, the master or owner and each seaman shall respectively in the presence of the shipping master sign, in a form sanctioned by the board of trade, a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest it, and shall retain and transmit it as herein directed: Release to be signed before and attested by the shipping master.

(2.) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement: To be discharge:

(3.) A copy of such release, certified under the hand of such shipping master to be a true copy, shall be given by him to any party thereto requiring the same; and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy: and to be evidence.

(4.) In cases in which discharge and settlement before a shipping master are hereby required, no payment, receipt, settlement, or discharge otherwise made, shall operate or be admitted as evidence of the release or satisfaction of any claim: No other receipt to be a discharge.

(5.) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount Voucher to be given to master, and to be evidence.

amount so paid; and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned :

Master to
make report
of character.

176. Upon every discharge effected before a shipping master the master shall make and sign, in a form sanctioned by the board of trade, a report of the conduct, character, and qualifications of the persons discharged, or may state, in a column to be left for that purpose in the said form, that he declines to give any opinion upon such particulars or upon any of them; and the shipping master shall transmit the same to the registrar general of seamen, or to such other person as the board of trade directs, to be recorded, and shall, if desired so to do by any seaman, give to him or indorse on his certificate of discharge a copy of so much of such report as concerns him; and every person who makes, assists in making, or procures to be made any false certificate or report of the service, qualifications, conduct, or character of any seaman, knowing the same to be false, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or report, or who fraudulently makes use of any certificate or report or of any copy of any certificate or report which is forged or altered or does not belong to him, shall for each such offence be deemed guilty of a misdemeanor.

Remittance of Wages and Savings Banks for Seamen.

Facilities may
be given for
remitting sea-
men's wages.

177. Facilities shall, if the board of trade so directs, be given for remitting the wages and other monies of seamen and apprentices to their relatives or other persons by means of money orders issued by shipping masters; and the board of trade may make regulations concerning such orders, and the persons by or to whom, and the mode and time in and at which, the same are to be paid, and may from time to time repeal or alter any such regulations; and all such regulations, so long as they are in force, shall be binding upon all persons interested or claiming to be interested in such orders, as well as upon the officers employed in issuing or paying the same; and no legal proceeding shall be instituted against the board of trade, or against any shipping master or other public officer employed about such orders, on account of any such regulations, or on account of any act done or left undone in pursuance thereof, or on account of any refusal, neglect, or omission to pay any such money order, unless such refusal, neglect, or omission arise from fraud or wilful misbehaviour on the part of the person against whom proceedings are instituted.

Power to pay
when order is
lost.

178. The board of trade may, in any case in which it thinks fit so to do, cause the amount of any such money order

order as aforesaid to be paid to the person to whom or in whose favour the same may have been granted, or to his personal representatives, legatees, or next of kin, notwithstanding that such order may not be in his or their possession; and in all such cases from and after such payment the board of trade and every shipping master, or other officer of the board of trade, shall be freed from all liability in respect of such order.

179. Every shipping master or other public officer who grants or issues any money order with a fraudulent intent, shall in *England* or *Ireland* be deemed guilty of felony, and in *Scotland* of a high crime and offence, and shall be liable to be kept in penal servitude for a term not exceeding four years.

Penalty for issuing money orders with fraudulent intent.

180. The commissioners for the reduction of the national debt, or the comptroller general acting under them, may, on the application and recommendation of the board of trade, establish savings banks at such ports and places within the United Kingdom, either in the shipping offices established in such ports or elsewhere, as may appear to be expedient, and may appoint treasurers to receive from or on account of seamen, or the wives and families of seamen, desirous to become depositors in such savings banks, deposits to an amount not exceeding one hundred and fifty pounds in the whole in respect of any one account, under such regulations as may be prescribed by the said commissioners or comptroller general; and such regulations shall be binding on all such treasurers and depositors; and the said commissioners may remove such treasurers, and appoint others in their place; and all the provisions of the Acts now in force relating to savings banks, except so far as relates to the annual amount of deposit, shall apply to all saving banks which may be established under the authority of this Act, and to such treasurers and depositors as aforesaid.

Savings Banks for seamen may be established.

(See *Imp. Act, 18 & 19 Vict., c. 91, s. 17, post.*)

Legal Rights to Wages.

181. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Right to wages and provisions, when to begin.

182. No seaman shall by any agreement forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman

Seamen not to give up certain rights.

man consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

(See *Imp. Act, 25 & 26 Vict., c. 63, s. 18, post.*)

Wages not to be dependent on the earning of freight.

183. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim.

In case of death, such wages to be paid as after mentioned.

184. If any seaman or apprentice, to whom wages are due under the last preceding enactment, dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

Rights to wages in case of termination of service by illness.

185. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid, by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage granted as hereinafter mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Wages not to accrue during refusal to work or imprisonment.

186. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Period within which wages are to be paid.

187. The master or owner of every ship shall pay to every seaman his wages within the respective periods following; (that is to say,) in the case of a home trade ship within two days after the termination of the agreement or at the time when such seaman is discharged, whichever first happens; and in the case of all other ships (except ships employed in the southern whale fishery or on other voyages for which seamen by the terms of their agreement are wholly compensated by shares in the profits of the adventure) within three days after the cargo has been delivered, or within five days

days after the seaman's discharge, whichever first happens ; and in all cases the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him ; and every master or owner who neglects or refuses to make payment in manner aforesaid, without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid, and such sum shall be recoverable as wages.

Mode of recovering Wages.

188. Any seaman or apprentice, or any person duly authorized on his behalf, may sue in a summary manner before any two justices of the peace acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, or in *Scotland* either before any such justices or before the sheriff of the county within which any such place is situated, for any amount of wages due to such seaman or apprentice not exceeding fifty pounds over and above the costs of any proceeding for the recovery thereof, so soon as the same becomes payable ; and every order made by such justices or sheriff in the matter shall be final.

Seamen may sue for wages in a summary manner.

(See *Imp. Act, 25 & 26 Vict., c. 63, s. 21.*)

189. No suit or proceeding for the recovery of wages under the sum of fifty pounds shall be instituted by or on behalf of any seaman or apprentice in any court of admiralty or vice-admiralty, or in the court of session in *Scotland*, or in any superior court of record in Her Majesty's Dominions, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any justices acting under the authority of this Act refer the case to be adjudged by such court, or unless neither the owner nor master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

Restrictions on suits for wages in superior courts.

190. No seaman who is engaged for a voyage or engagement which is to terminate in the United Kingdom shall be entitled to sue in any court abroad for wages, unless he is discharged with such sanction as herein required and with the written consent of the master, or proves such ill-usage on the part of the master or by his authority as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board ; but if any seaman on his return to the United Kingdom proves that the master or owner has

No seaman to sue for wages abroad, except in cases of discharge or of danger to life.

been

been guilty of any conduct or default which but for this enactment would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages such compensation not exceeding twenty pounds as the court hearing the case thinks reasonable.

Master to have same remedies for wages as seamen.

191. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if in any proceeding in any court of admiralty or vice-admiralty touching the claim of a master to wages any right of set-off or counter-claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

(Secs. 192 & 193 provided for relief to seamen's families out of poor rates.)

Wages and Effects of deceased Seamen.

Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same and wages due in the official log.

194. Whenever any seaman or apprentice belonging to or sent home in any *British* ship whether a foreign-going ship or a home trade ship, employed on a voyage which is to terminate in the United Kingdom, dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall, if he thinks fit, cause all or any of the said clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log book containing the following particulars; (that is to say,)

- (1.) A statement of the amount of the money and a description of the effects so left by the deceased :
- (2.) In case of a sale, a description of each article sold, and the sum received for each :
- (3.) A statement of the sum due to the deceased as wages, and the total amount of the deductions (if any) to be made therefrom :

And shall cause such entry to be attested by a mate and by one of the crew.

Such effects and wages to be paid either to consul or to shipping master, with full accounts.

195. In the cases provided for by the last preceding section, the following rules shall be observed; (that is to say,)

(1.)

- (1.) If the ship proceeds at once to any port in the United Kingdom without touching on the way at any foreign port, the master shall within forty-eight hours after his arrival deliver any such effects as aforesaid remaining unsold, and pay any money which he has taken charge of or received from such sale as aforesaid, and also the balance of wages due to the deceased, to the shipping master at the port of destination in the United Kingdom :
- (2.) If the ship touches and remains for forty-eight hours at some foreign port or at some port in Her Majesty's Dominions abroad before coming to any port in the United Kingdom, the master shall report the case to the *British* consular officer or officer of customs there, as the case may be, and shall give to such officer any information he requires as to the destination of the ship and probable length of the voyage ; and such officer may thereupon, if he considers it expedient so to do, require the said effects, money, and wages to be delivered and paid to him and shall upon such delivery and payment give to the master a receipt, and the master shall within forty-eight hours after his arrival at his port of destination in the United Kingdom produce the same to the shipping master there ; and such consular officer or officer of customs shall in such case indorse and certify upon the agreement with the crew such particulars with respect to such delivery and payment as the board of trade requires :
- (3.) If such officer as aforesaid does not require such payment and delivery to be made to him, the master shall take charge of the said effects, money, and wages, and shall, within forty-eight hours after his arrival at his port of destination in the United Kingdom deliver and pay the same to the shipping master there :
- (4.) The master shall in all cases in which any seaman or apprentice dies during the progress of a voyage or engagement give to the board of trade, or to such officer or shipping master as aforesaid, an account in such form as they respectively require of the effects, money, and wages so to be delivered and paid ; and no deductions claimed in such account shall be allowed unless verified, if there is any official log book, by such entry therein as hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the board of trade, or by the officer or shipping master to whom the account is rendered :
- (5.) Upon due compliance with such of the provisions of this section as relate to acts to be done at the port of destination in the United Kingdom, the shipping master shall grant to the master a certificate to that effect, and no officer of customs shall clear inwards any foreign-going ship without the production of such certificate.

Penalties for not taking charge of, remitting, or accounting for such monies and effects.

196. If any master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to procure such attestation to such entries or to make such payment or delivery of any money, wages, or effects of any seaman or apprentice dying during a voyage, or to give such account in respect thereof as hereinbefore respectively directed, he shall be accountable for the money, wages and effects of the seaman or apprentice to the board of trade, and shall pay and deliver the same accordingly; and such master shall, in addition for every such offence, incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding fifty pounds; and if any such money, wages, or effects are not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if he fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty which is hereinbefore mentioned as incurred by the master for the like offence; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Officers of customs and consuls to take charge of effects left by seamen abroad, and to remit the same and their wages to board of trade.

197. If any such seaman or apprentice as last aforesaid dies abroad at any place, either in or out of Her Majesty's Dominions, leaving any money or effects not on board his ship, the chief officer of customs or the *British* consular officer at or nearest to the place, as the case may be, shall claim and take charge of such money and effects; and such officer shall, if he thinks fit, sell all or any of such effects, or any effects of any deceased seaman or apprentice delivered to him under the provisions hereinbefore contained; and every such officer shall, quarterly or at such other times as the board of trade directs, remit to Her Majesty's paymaster general all monies belonging to or arising from the sale of the effects of or paid as the wages of any deceased seaman or apprentice which have come to his hands under the provisions hereinbefore contained, and shall render such accounts in respect thereof as the board of trade requires.

(See *Imp. Act 25 & 26 Vict., c. 63, s. 20, post.*)

Wages and effects of seamen dying at home to be paid in certain cases to board of trade.

198. Whenever any seaman or apprentice dies in the United Kingdom, and is at the time of his death entitled to claim from the master or owner of any ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping master

master at the port where the seaman or apprentice was discharged or was to have been discharged, or to the board of trade, as it directs.

199. If the money and effects of any deceased seaman or apprentice paid, delivered, or remitted to the board of trade or its agents, including the monies received for any part of the said effects which have been sold either before delivery to the board of trade or by its direction, do not exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained, and to all such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the said board thinks proper to allow, the said board may, if it thinks fit so to do, pay and deliver the said money and effects either to any claimants who can prove themselves to the satisfaction of the said board either to be his widow or children, or to be entitled to the effects of the deceased under his will (if any), or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, or to be entitled to procure probate or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall thereby be discharged from all further liability in respect of the money and effects so paid and delivered, or may, if it thinks fit so to do, require probate or letters of administration or confirmation to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and all claimants to whom such money or effects are so paid or delivered shall apply the same in due course of administration; and if such money and effects exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained and to deduction for expenses, the board of trade shall pay and deliver the same to the legal personal representatives of the deceased.

If less than £50, wages and property of deceased seamen may be paid over without probate or administration to the persons entitled.

200. In cases where the deceased seaman or apprentice has left a will, the board of trade shall have the following powers; (that is to say,)

Mode of payment under wills made by seamen.

- (1.) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person claiming to be entitled thereto under a will made on board ship unless such will is in writing, and is signed or acknowledged by the testator in the presence of the master, or first, or only mate of the ship, and is attested by such master or mate:
- (2.) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person not being related to the testator by blood or marriage, who claims

to

to be entitled thereto under a will made elsewhere than on board ship, unless such will is in writing, and is signed or acknowledged by the testator in the presence of two witnesses, one of whom is some shipping master appointed under this Act, or some minister or officiating minister or curate of the place in which the same is made, or, in a place where there are no such persons, some justice of the peace, or some *British* consular officer, or some officer of customs, and is attested by such witnesses :

Whenever any claim made under a will is rejected by the board of trade, on account of the said will not being made and attested as hereinbefore required, the wages and effects of the deceased shall be dealt with as if no will had been made.

Provision for
payment of
just claims by
creditors, and
for preventing
fraudulent
claims.

201. The following rules shall be observed with respect to creditors of deceased seamen and apprentices ; (that is to say,)

- (1.) No such creditor shall be entitled to claim from the board of trade the wages or effects of any such seaman or apprentice, or any part thereof, by virtue of letters of administration taken out by him, or by virtue of confirmation in *Scotland* as executor creditor :
- (2.) No such creditor shall be entitled, by any means whatever, to payment of his debt out of such wages and effects, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after such death :
- (3.) Subject as aforesaid, the steps to be taken for procuring payment of such debt shall be as follows (that is to say) : every person making a demand as creditor shall deliver to the board of trade an account in writing in such form as it requires, subscribed with his name, stating the particulars of his demand and the place of his abode, and verified by his declaration made before a justice :
- (4.) If before such demand is made any claim to the wages and effects of the deceased, made by any person interested therein as his widow or child, or under a will, or under the Statutes for the distribution of the effects of intestates, or under any other Statute, or at common law, has been allowed, the board of trade shall give notice to the creditor of the allowance of such person's claim, and the creditor shall thereupon have the same rights and remedies against such person as if he or she had received the said wages and effects as the legal personal representative of the deceased :

(5.)

- (5.) If no claim by any such person has been allowed, the board of trade shall proceed to investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by such means the creditor duly satisfies the board of trade of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the assets in the hands of the board of trade will extend for that purpose, and such payment shall discharge the board of trade from all further liability in respect of the money so paid; but if such board is not so satisfied, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and no sufficient reason is assigned for not producing them, the demand shall be disallowed:
- (6.) In any case whatever the board of trade may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the wages and effects of the deceased is made and substantiated as hereinbefore required by any person interested therein as a widow or child, or under a will, or under the statutes for the distribution of the effects of intestates, or under any other Statute, or at common law, the board of trade may pay and deliver the same to such person; and thereupon the creditor shall have the same rights and remedies against such person as if he or she had received the same as the legal personal representative of the deceased.

202. In cases of wages or effects of deceased seamen or apprentices received by the board of trade, to which no claim is substantiated within six years after the receipt thereof by such board, it shall be in the absolute discretion of such board, if any subsequent claim is made, either to allow or to refuse the same; and, subject to the provision hereinafter contained, the board of trade shall from time to time pay any monies arising from the unclaimed wages and effects of deceased seamen, which, in the opinion of such board, it is not necessary to retain for the purpose of satisfying claims, into the receipt of Her Majesty's Exchequer, in such manner as the Treasury directs, and such monies shall be carried to and form part of the consolidated fund of the United Kingdom.

Mode of dealing with unclaimed wages of deceased seamen.

203. Every person who, for the purpose of obtaining either for himself or for another, any money or effects of any deceased seaman or apprentice, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document

Punishment for forgery and false representations in order to obtain wages and property of deceased seamen.

document purporting to show or assist in showing a right to such wages or effects, and every person who for the purpose aforesaid makes use of any such forged or altered document as aforesaid, or who for the purpose aforesaid gives or makes or procures to be given or made, or assists in giving or making or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with penal servitude for a term not exceeding four years, or with imprisonment with or without hard labor for any period not exceeding two years, or if summarily prosecuted and convicted, by imprisonment, with or without hard labor, for any period not exceeding six months.

Effects of seamen discharged from navy to be disposed of by accountant general of navy.

204. In the case of seamen invalided or discharged from any of Her Majesty's ships, and sent home in merchant ships, any monies or effects belonging to them which are paid, remitted, or delivered to the board of trade, or its agents, under the provisions hereinbefore contained, shall be paid over and disposed of in such manner as the accountant general of Her Majesty's navy directs.

(And see *Imp. Act 25 & 26 Vict., c. 63, s. 21, post.*)

Leaving Seamen abroad.

On discharge of seamen abroad, by sale of ship or otherwise, certificates of discharge to be given, and seamen to be sent home at expense of owner.

205. Whenever any *British* ship is transferred or disposed of at any place out of Her Majesty's Dominions, and any seaman or apprentice belonging thereto does not in the presence of some *British* consular officer, or, if there is no such consular officer there, in the presence of one or more respectable *British* merchants residing at the place, and not interested in the said ship, signify his consent in writing to complete the voyage if continued, and whenever the service of any seaman or apprentice belonging to any *British* ship terminates at any place out of Her Majesty's Dominions, the master shall give to each such seaman or apprentice a certificate of discharge in the form sanctioned by the board of trade as aforesaid, and, in the case of any certificated mate whose certificate he has retained, shall return such certificate to him, and shall also, besides paying the wages to which such seaman or apprentice is entitled, either provide him with adequate employment on board some other *British* ship bound to the port in Her Majesty's Dominions at which he was originally shipped, or to such other port in the United Kingdom as is agreed upon by him, or furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such consular officer or such merchant or merchants as aforesaid such a sum of money as is by such officer or merchants deemed sufficient to defray the expenses of his subsistence and passage home; and such consular officer or merchants shall indorse upon the agreement of the ship which
the

the seaman or apprentice is leaving the particulars of such payment, provision, or deposit; and if the master refuses or neglects to comply with the requirements of this section, such expenses as last aforesaid, if defrayed by such consular officer or by any other person, shall, unless such seaman or apprentice has been guilty of barratry, be a charge upon the ship to which such seaman or apprentice belonged and upon the owner for the time being thereof, and may be recovered against such owners, with costs, at the suit of the consular officer or other person defraying such expenses, or, in case the same has been allowed to the consular officer out of the public monies, as a debt due to Her Majesty either by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages; and such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due to him.

206. If the master or any other person belonging to any *British* ship wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind, in any place, on shore or at sea, in or out of Her Majesty's Dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged or the return of the ship to the United Kingdom, he shall for each such offence be deemed guilty of a misdemeanor.

Forcing seamen on shore a misdemeanor.

207. If the master of any *British* ship does any of the following things; (that is to say,)

No seamen to be discharged or left abroad without certificate of some functionary.

- (1.) Discharges any seaman or apprentice in any place situate in any *British* Possession abroad (except the Possession in which he was shipped), without previously obtaining the sanction in writing indorsed on the agreement of some public shipping master or other officer duly appointed by the local government in that behalf, or (in the absence of any such functionary) of the chief officer of customs resident at or near the place where the discharge takes place :
- (2.) Discharges any seaman or apprentice at any place out of Her Majesty's Dominions without previously obtaining the sanction so indorsed as aforesaid of the *British* consular officer there, or (in his absence) of two respectable merchants resident there :
- (3.) Leaves behind any seaman or apprentice at any place situate in any *British* Possession abroad, on any ground whatever, without previously obtaining a certificate in writing so indorsed as aforesaid from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause be unfitness or inability to proceed to sea, or desertion or disappearance :

(4.)

- (4.) Leaves behind any seaman or apprentice at any place out of Her Majesty's Dominions, on shore or at sea, on any ground whatever, without previously obtaining the certificate indorsed in manner and to the effect last aforesaid of the *British* consular officer there, or (in his absence) of two respectable merchants, if there is any such at or near the place where the ship then is :

He shall for each such default be deemed guilty of a misdemeanor; and the said functionaries shall and the said merchants may examine into the grounds of such proposed discharge, or into the allegation of such unfitness, inability, desertion, or disappearance as aforesaid, in a summary way, and may for that purpose, if they think fit so to do, administer oaths, and may either grant or refuse such sanction or certificate as appears to them to be just.

Proof of such certificate to be upon the master.

208. Upon the trial of any information, indictment, or other proceeding against any person for discharging or leaving behind any seaman or apprentice, contrary to the provisions of this Act, it shall lie upon such person either to produce the sanction or certificate hereby required, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

Wages to be paid when seamen are left behind on ground of inability.

209. Every master of any *British* ship who leaves any seaman or apprentice on shore at any place abroad in or out of Her Majesty's Dominions, under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or (in the absence of such functionaries) to the merchants by whom such certificate is signed, or, if there be but one respectable merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice, such account when delivered to a consular officer to be in duplicate, and shall pay the same either in money or by a bill drawn upon the owner; and in the case of every bill so drawn, such functionary, merchants or merchant as aforesaid, shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's wages, and shall also indorse the amount for which such bill is drawn, with such further particulars in respect of the case as the board of trade requires, upon the agreement of the ship; and every such master as aforesaid who refuses or neglects to deliver a full account of such wages, and pay the amount thereof in money or by bill, as hereinbefore required, shall for every such offence or default be liable, in addition to the payment of the wages, to a penalty not exceeding ten pounds; and every such master who delivers a false account of such wages shall for every such offence, in addition to the payment of the wages, incur a penalty not exceeding twenty pounds.

(See

(See *Imp. Act, 25 & 26 Vict., c. 63, s. 19, post.*)

210. Every such payment as last aforesaid, whether by bill or in money, shall, if made in any *British Possession*, be made to the seaman or apprentice himself, and, if made out of Her Majesty's Dominions, to the consular officer, who shall, if satisfied with the account, indorse on one of the duplicates thereof a receipt for the amount paid or bill delivered, and shall return the same to the master; and the master shall, within forty-eight hours after his return to his port of destination in the United Kingdom, deliver the same to the shipping master there; and the consular officer shall retain the other duplicate of the said account, and shall, if the seaman or apprentice subsequently obtains employment at or otherwise quits the port, deduct out of the sum received by him as aforesaid any expenses which have been incurred by him in respect of the subsistence of the seaman or apprentice under the provisions herein contained, except such as the master or owner of the ship is hereby required to pay, and shall pay the remainder to the seaman or apprentice, and shall also deliver to him an account of the sums so received and expended on his behalf; and shall, if the seaman or apprentice dies before his ship quits the port, deal with the same in the manner hereinafter specified in that behalf, and shall, if the seaman or apprentice is sent home at the public expense under the provisions herein contained, account for the amount received to the board of trade; and such amount shall, after deducting any expenses which have been duly incurred in respect of such seaman or apprentice, except such as the master or owner of the ship is hereby required to pay, be dealt with as wages to which he is entitled, and shall be paid accordingly.

Such wages to be treated as money due to the seamen, subject to payment of expense of their subsistence and passage home.

211. The Governors, consular officers, and other officers of Her Majesty in foreign countries shall, and in places where there are no such Governors or officers, any two resident *British* merchants may, provide for the subsistence of all seamen or apprentices, being subjects of Her Majesty, who have been shipwrecked, discharged, or left behind at any place abroad, whether from any ship employed in the merchant service or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power or to the subject of any foreign state, and who are in distress in any place abroad, until such time as they are able to provide them with a passage home, and for that purpose shall cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty bound to any port of the United Kingdom, or to the *British Possession* to which they belong, (as the case requires,) which is in want of men to make up its complement, and in default of any such ship

Distressed seamen found abroad may be relieved and sent home at the public expense.

ship shall provide them with a passage home as soon as possible in some ship belonging to a subject of Her Majesty so bound as aforesaid, and shall indorse on the agreement of any ship on board of which any seaman or apprentice is so taken or sent the name of every person so sent on board thereof, with such particulars concerning the case as the board of trade requires, and shall be allowed for the subsistence of any such seaman or apprentice such sum *per diem* as the board of trade from time to time appoints; and the amount due in respect of such allowance shall be paid out of any monies applicable to the relief of distressed *British* seamen, and granted by Parliament for the purpose, on the production of the bills of the disbursements, with the proper vouchers.

(See *Imp. Acts 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22, post.*)

Masters of
British ships
compelled to
take them.

212. The master of every *British* ship so bound as aforesaid shall receive and afford a passage and subsistence to all seamen or apprentices whom he is required to take on board his ship under the provisions hereinbefore contained, not exceeding one for every fifty tons burden, and shall during the passage provide every such seaman or apprentice with a proper berth or sleeping place effectually protected against sea and weather; and on the production of a certificate signed by any Governor, consular officer, or merchants, by whose directions any such seaman or apprentice was received on board, specifying the number and names of such seamen or apprentices, and the time when each of them respectively was received on board, and on a declaration made by such person before a justice, and verified by the registrar general of seamen, stating the number of days during which each seaman or apprentice received subsistence and was provided for as aforesaid on board his ship, and stating also the number of men and boys forming the complement of his crew, and the number of seamen and apprentices employed on board his ship during such time, and every variation (if any) of such number, such person shall be entitled to be paid out of the said monies applicable to the relief of distressed *British* seamen, in respect of the subsistence and passage of every seaman or apprentice so conveyed, subsisted, and provided for by him exceeding the number (if any) wanted to make up the complement of his crew, such sum *per diem* as the board of trade from time to time appoints, and if any person having charge of any such ship fails or refuses to receive on board his ship, or to give a passage home, or subsistence to, or to provide for any such seaman or apprentice as aforesaid, contrary to the provisions of this Act, he shall incur a penalty not exceeding one hundred pounds for each seaman or apprentice with respect to whom he makes such default or refusal.

(See

(See *Imp. Acts, 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22, post.*)

213. If any seaman or apprentice belonging to any *British* ship is discharged or left behind at any place out of the United Kingdom, without full compliance on the part of the master with all the provisions in that behalf in this Act contained, and becomes distressed and is relieved under the provisions of this Act, or if any subject of Her Majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power, or to the subject of any foreign power, becomes distressed and is relieved as aforesaid, the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and burial, in case he should die abroad before reaching home, shall be a charge upon the ship, whether *British* or foreign, to which he so belonged as aforesaid; and the board of trade may in the name of Her Majesty (besides suing for any penalties which may have been incurred) sue for and recover the said wages and expenses, with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, or, in the case of such engagement as aforesaid for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made as aforesaid; and such sums shall be recoverable either in the same manner as other debts due to Her Majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him; and in any proceedings for that purpose production of the account (if any) to be furnished as hereinbefore is provided in such cases, together with proof of payment by the board of trade or by the paymaster general of the charges incurred on account of any such seaman, apprentice, or other person, shall be sufficient evidence that he was relieved, conveyed home, or buried (as the case may be) at Her Majesty's expense.

Power to sue for the amount advanced for the relief of seamen left abroad.

(See *Imp. Acts, 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22.*)

Volunteering into the Navy.

214. Any seaman may leave his ship for the purpose of forthwith entering into the naval service of Her Majesty, and such leaving his ship shall not be deemed a desertion therefrom, and shall not render him liable to any punishment or forfeiture whatever; and all stipulations introduced into any agreement whereby any seaman is declared to incur any forfeiture or be exposed to any loss in case he enters into Her Majesty's naval service shall be void, and every master or owner

Seamen allowed to leave their ships in order to enter the navy.

owner who causes any such stipulation to be so introduced shall incur a penalty not exceeding twenty pounds.

Clothes to be delivered at once.

Wages to be given to the Queen's officer on account of the seamen.

215. Whenever any seaman, without having previously committed any act amounting to and treated by the master as desertion, leaves his ship in order to enter into the naval service of Her Majesty and is received into such service, the master shall deliver to him his clothes and effects on board such ship, and shall pay the proportionate amount of his wages down to the time of such entry, subject to all just deductions as follows; (that is to say,) the master of the said ship shall pay the same to the officer authorized to receive such seaman into Her Majesty's service, either in money or by bill drawn upon the owner and payable at sight to the order of the accountant general of the navy; and the receipt of such officer shall be a discharge for the money or bill so given; and such bill shall be exempt from stamp duty; and if such wages are paid in money, such money shall be credited in the muster book of the ship to the account of the said seaman; and if such wages are paid by bill, such bill shall be noted in the said muster book and shall be sent to the said accountant general, who shall present the same or cause the same to be presented for payment, and shall credit the produce thereof to the account of the said seaman; and such money or produce (as the case may be) shall not be paid to the said seaman until the time at which he would have been entitled to receive the same if he had remained in the service of the ship which he had so quitted as aforesaid; and if any such bill is not duly paid when presented, the said accountant general or the seaman on whose behalf the same is given may sue thereon or may recover the wages due by all or any of the means by which wages due to merchant seamen are recoverable; and if upon any seaman leaving his ship in the manner and for the purpose aforesaid, the master fails to deliver his clothes and effects, or to pay his wages as hereinbefore required, he shall, in addition to his liability to pay and deliver the same, incur a penalty not exceeding twenty pounds; provided that no officer who receives any such bill as aforesaid shall be subject to any liability in respect thereof, except for the safe custody thereof until sent to the said accountant general as aforesaid.

Repayment to owner of advance paid and not duly earned.

216. If upon any seaman leaving his ship for the purpose of entering the naval service of Her Majesty, the owner or master of such ship shows to the satisfaction of the admiralty that he has paid or properly rendered himself liable to pay an advance of wages to or on account of such seaman, and that such seaman has not at the time of quitting his ship duly earned such advance by service therein, and, in the case of such liability as aforesaid, if such owner or master actually satisfies the same, it shall be lawful for the admiralty to pay to

to such owner or master so much of such advance as has not been duly earned, and to deduct the sum so paid from the wages of the seaman earned or to be earned in the naval service of Her Majesty.

217. If, in consequence of any seaman so leaving his ship without the consent of the master or owner thereof, it becomes necessary for the safety and proper navigation of the said ship to engage a substitute or substitutes, and if the wages or other remuneration paid to such substitute or substitutes for subsequent service exceed the wages or remuneration which would have been payable to the said seaman under his agreement for similar service, the master or owner of the said ship may apply to the registrar of the high court of admiralty in *England* for a certificate authorizing the repayment of such excess; and such application shall be in such form, and shall be accompanied by such documents, and by such statements, whether on oath or otherwise, as the judge of the said court from time to time directs.

If new seamen are engaged instead of the original seamen, the owner may apply for repayment of any extra expense he has been put to.

218. The said registrar shall, upon receiving such application as aforesaid, give notice thereof in writing, and of the sum claimed, to the secretary to the admiralty, and shall proceed to examine the said application, and may call upon the registrar general of seamen to produce any papers in his possession relating thereto, and may call for further evidence; and if the whole of the claim appears to him to be just, he shall give a certificate accordingly; but if he considers that such claim or any part thereof is not just he shall give notice of such his opinion in writing under his hand to the person making the said application or his attorney or agent; and if within sixteen days from the giving of such notice such person does not leave or cause to be left at the office of the registrar of the said court a written notice demanding that the said application shall be referred to the judge of the said court, then the said registrar shall finally decide thereon, and certify accordingly; but if such notice is left as aforesaid, then the said application shall stand referred to the said judge in his chambers, and his decision thereon shall be final, and the said registrar shall certify the same accordingly; and the said registrar and judge respectively shall in every proceeding under this Act have full power to administer oaths and to exercise all the ordinary powers of the court, as in any other proceeding within its jurisdiction; and the said registrar or judge (as the case may be) may, if he thinks fit, allow for the costs of any proceeding under this Act any sum not exceeding five pounds for each seaman so quitting his ship as aforesaid; and such sum shall be added to the sum allowed, and shall be certified by the said registrar accordingly.

Application how to be decided on, and amount of repayment how to be ascertained.

Accountant
general to
pay sums
when ascer-
tained.

219. Every certificate so given shall be sent by post or otherwise to the person making the application, his attorney or agent, and a copy thereof shall be sent to the accountant general of the navy; and such accountant general shall, upon delivery to him of the said original certificate, together with a receipt in writing purporting to be a receipt from the master or owner making the application, pay to the person delivering the same, out of the monies applicable to the naval service of Her Majesty, and granted by Parliament for the purpose, the amount mentioned in such certificate; and such certificate and receipt shall absolutely discharge the said accountant general and Her Majesty from all liability in respect of the monies so paid or of the said application.

Penalty for
forgery and
false repre-
sentations in
support of
such applica-
tions.

220. Every person who, in making or supporting any such applications as aforesaid to the registrar of the high court of admiralty, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who, in making or supporting any such application, presents or makes use of any such forged or altered document, or who in making or supporting any such application makes or gives, or assists in making or giving, or procures to be made or given, any false evidence or representation, knowing the same to be false, shall be deemed guilty of a misdemeanor.

Provisions, Health, and Accommodation.

Survey of
provisions and
water on com-
plaint made.

221. Any three or more of the crew of any *British* ship may complain to any officer in command of any Her Majesty's ships, or any *British* consular officer, or any shipping master, or any chief officer of customs, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding twenty pounds: and upon every such examination as aforesaid the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report

report thereof to the board of trade, and such report, if produced out of the custody of such board or its officers, shall be received in evidence in any legal proceeding.

222. If the officer, to whom any such complaint as last aforesaid is made, certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Forfeiture for
frivolous com-
plaint.

223. In the following cases, (that is to say,)

Allowance for
short or bad
provisions.

- (1.) If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);
- (2.) If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums to be paid to him in addition to and to be recoverable as wages; (that is to say,)

- (1.) If his allowance is reduced by any quantity not exceeding one third of the quantity specified in the agreement, a sum not exceeding fourpence a day;
- (2.) If his allowance is reduced by more than one third of such quantity, eightpence a day;
- (3.) In respect of such bad quality as aforesaid, a sum not exceeding one shilling a day:

But if it be shown to the satisfaction of the court before which the case is tried that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.

(*Sec. 224 prescribed rules to be observed with respect to medicines, medical stores, and anti-scorbutics, and is repealed by Imp. Act, 30 & 31 Vict., c. 124, s. 3, and see Sec. 4 of that Act.*)

Masters to
keep weights
and measures
on board.

225. Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding ten pounds.

Board of Trade
and local
boards may
appoint in-
spectors of
medicines,
who are to see
that ships are
properly pro-
vided.

226. Any local marine board may, upon being required by the board of trade so to do, appoint and remove a medical inspector of ships for the port, and may fix his remuneration, such remuneration to be subject to the control of the board of trade; and at ports where there are no local marine boards the board of trade may appoint and remove such inspectors, and fix their remuneration; and it shall be the duty of such inspectors to inspect the medicines, medical stores, lime or lemon juice, or other articles, sugar and vinegar, required to be kept on board any such ships as aforesaid; and such inspection, if made at places where there are local marine boards, shall be made under their direction, and also in any special cases under the direction of the board of trade, and if made at places where there are no local marine boards, shall be made under the direction of the board of trade; and such medical inspectors shall for the purposes of such inspection have the same powers as the inspectors appointed by the board of trade under the first part of this Act; but every such inspector, if required by timely notice in writing from the master, owner, or consignee, shall make his inspection three days at least before the ship proceeds to sea, and if the result of the inspection is satisfactory, shall not again make inspection before the commencement of the voyage, unless he has reason to suspect that some of the articles inspected have been subsequently removed, injured, or destroyed; and whenever any such medical inspector is of opinion that in any ship hereby required to carry such articles as aforesaid the same or any of them are deficient in quantity or quality, or are placed in improper vessels, he shall signify the same in writing to the chief officer of customs of the port where such ship is lying, and also to the master, owner, or consignee thereof, and thereupon the master of such ship, before proceeding to sea, shall produce to such chief officer of customs a certificate under the hand of such medical inspector or of some other medical inspector, to the effect that such deficiency has been supplied or remedied, or that such improper vessels have been replaced by proper vessels, as the case may require; and such chief officer of customs shall not grant a clearance for such ship without the production of such certificate, and if such ship attempts to go to sea without a clearance, may detain her until such certificate is produced; and if such ship proceeds to sea without the production

production of such certificate, the owner, master, or consignee thereof shall incur a penalty not exceeding twenty pounds.

(Sec. 227 which provided a penalty for selling or supplying medicines, medical stores, lime or lemon juice, of bad quality, for the use of any ship, is repealed by Imp. Act 30 & 31 Vict., c. 124, sec. 3, and see sec. 5 of that Act.)

228. The following rules shall be observed with respect to expenses attendant on illness and death ; (that is to say,)

Expense of medical attendance and subsistence in case of illness, and of burial in case of death, how to be defrayed.

- (1.) If the master or any seaman or apprentice receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured, or dies, or is brought back to some port in the United Kingdom, if shipped in the United Kingdom, or if shipped in some *British* Possession to some port in such Possession, and of his conveyance to such port, and the expense (if any) of his burial, shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman, or apprentice :
- (2.) If the master or any seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal and of providing the necessary advice with attendance and medicines and of his subsistence whilst away from the ship, shall be defrayed in like manner :
- (3.) The expense of all medicines and surgical or medical advice and attendance given to any master, seaman or apprentice whilst on board his ship, shall be defrayed in like manner :
- (4.) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice.

229. If any such expenses in respect of the illness, injury, or hurt of any seaman or apprentice, as are to be borne by the owner, are paid by any consular officer or other person on behalf of Her Majesty, or if any other expenses in respect of the illness, injury, or hurt of any seaman or apprentice,

Expenses, if paid by Consul, to be recoverable from owner.

whose

whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf, are so paid, such expenses shall be repaid to such officer or other person by the master of the ship, and if not so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master or from the owner of the ship for the time being as a debt due to Her Majesty, and shall be recoverable either by ordinary process of law or in the manner in which seamen are hereby enabled to recover wages; and in any proceeding for the recovery thereof the production of a certificate of the facts, signed by such officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by such consular officer or other person as aforesaid.

Certain ships
to carry medi-
cal practition-
ers.

230. Every foreign-going ship having one hundred persons or upwards on board shall carry on board as part of her complement some person duly authorized by law to practise as physician, surgeon, or apothecary; and in default the owner shall, for every voyage of any such ship made without such medical practitioner, incur a penalty not exceeding one hundred pounds:

Provided that nothing herein contained shall in anywise affect any provision contained in the "Passengers Act, 1852," concerning the carriage of medical practitioners by the class of ships therein named passenger ships, nor shall any such passenger ship, if not thereby required to carry a medical practitioner, be hereby required to do so.

(Sec. 231 prescribed rules to be observed with respect to accommodation on board, and is repealed by Imp. Act, 30 & 31 Vict., c. 124, s. 3, and see Sec. 9 of that Act.)

Power of Making Complaint.

Seamen to be
allowed to go
ashore to
make com-
plaint to a
Justice.

232. If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a justice of the peace, or consular officer, or naval officer in command of any of Her Majesty's ships, against the master or any of the crew, the said master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding ten pounds.

Protection

Protection of Seamen from Imposition.

233. No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court; and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any attachment, incumbrance, or arrestment thereon; and no assignment or sale of such wages or of salvage made prior to the accruing thereof shall bind the party making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

Sale of and charge upon wages to be invalid.

234. No debt exceeding in amount five shillings, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

No debt exceeding 5s. recoverable till end of voyage.

235. If any person demands or receives from any seaman or apprentice to the sea service payment in respect of his board or lodging in the house of such a person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding ten pounds.

Penalty for overcharges by lodging-house keepers.

236. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice to the sea service, and does not return the same or pay the value thereof, when required by such seaman or apprentice, subject to such deductions as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith; he shall incur a penalty not exceeding ten pounds, and any two justices may, besides inflicting such penalty, by summary order direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Penalty for detaining seamen's effects.

237. Every person who, not being in Her Majesty's service, and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival in dock or at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding twenty pounds; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any constable or peace officer, to be by him taken before a justice or justices or the sheriff of the County in *Scotland*, and to be dealt with according to the provisions of this Act.

Persons not to go on board before the final arrival of ship without permission.

238. If, within twenty-four hours after the arrival of any ship at any port in the United Kingdom, any person then being

Penalty for solicitations by lodging-house keepers.

being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding five pounds.

Discipline.

(See *Dom. Act*, 38 *Vict.*, c. 29.)

Misconduct
endangering
ship or life or
limb, a misde-
meanor.

239. Any master of or any seaman or apprentice belonging to any *British* ship who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be deemed guilty of a misdemeanour.

Power of Ad-
miralty Courts
to remove
master.

240. Any court having admiralty jurisdiction in any of Her Majesty's Dominions may, upon application by the owner of any ship being within the jurisdiction of such court, or by the part owner, or consignee, or by the agent of the owner, or by any certificated mate, or by one third or more of the crew of such ship, and upon proof on oath to the satisfaction of such court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner, or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the court, then without such consent, appoint a new master in his stead; and may also make such order, and may require such security in respect of costs in the matter, as it thinks fit.

Power to in-
vestigate cases
of alleged in-
competency
and miscon-
duct.

241. If the board of trade or any local marine board has reason to believe that any master or mate is from incompetency or misconduct unfit to discharge his duties, the board of trade may either institute an investigation or may direct the local marine board at or nearest to the place at which it may be convenient for the parties and witnesses to attend to institute the same, and thereupon such persons as the board of trade may appoint for the purpose, or, as the case may be, the local marine board, shall, with the assistance of a local stipendiary magistrate (if any), and if there is no such magistrate, of a competent legal assistant to be appointed by the board of trade, conduct the investigation, and may summon the master or mate to appear, and shall give him full opportunity

nity of making a defence either in person or otherwise, and shall, for the purpose of such investigation, have all the powers given by the first part of this Act to inspectors appointed by the board of trade, and may make such order with respect to the costs of such investigation as they may deem just; and shall, on the conclusion of the investigation, make a report upon the case to the board of trade; and in cases where there is no local marine board before which the parties and witnesses can conveniently attend, or where such local marine board is unwilling to institute the investigation, the board of trade may direct the same to be instituted before two justices or a stipendiary magistrate; and thereupon such investigation shall be conducted, and the results thereof reported, in the same manner and with the same powers in and with which formal investigations into wrecks and casualties are directed to be conducted, and the results thereof reported, under the provisions contained in the eighth part of this Act, save only that, if the board of trade so directs, the person bringing the charge of incompetency or misconduct to the notice of the board of trade, shall be deemed to be the party having the conduct of the case.

242. The board of trade may suspend or cancel the certificate (whether of competency or service) of any master or mate in the following cases; (that is to say,)

Board of Trade may cancel or suspend certificates in certain cases.

- (1.) If upon any investigation made in pursuance of the last preceding section, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness or tyranny:
- (2.) If upon any investigation conducted under the provisions contained in the eighth part of this Act, or upon any investigation made by a naval court constituted as hereinafter mentioned, it is reported that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default:
- (3.) If he is superseded by the order of any admiralty court or of any naval court constituted as hereinafter mentioned:
- (4.) If he is shown to have been convicted of any offence:
- (5.) If upon any investigation made by any court or tribunal authorized or hereafter to be authorized by the legislative authority in any *British* possession to make inquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to shipwrecks or other casualties affecting ships, a report is made by such court or tribunal to the effect that he has been guilty of any gross

gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default, and such report is confirmed by the Governor or person administering the government of such possession :

And every master or mate whose certificate is cancelled or suspended shall deliver it to the board of trade or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds ; and the board of trade may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

(*See Imp. Act, 25 & 26 Vict., c. 63, s. 21 & 23, post.*)

Offences of
seamen and
apprentices
and their pun-
ishments.

243. Whenever any seaman who has been lawfully engaged or any apprentice to the sea service commits any of the following offences he shall be liable to be punished summarily as follows ; (that is to say,)

Desertion :

- (1.) For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to the United Kingdom, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him :

Neglecting or
refusing to
join, or to pro-
ceed to sea, or
absence within
24 hours before
sailing, and
absence with-
out leave :

- (2.) For neglecting or refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty, not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days pay, or any expenses which have been properly incurred in hiring a substitute :

(3.)

- (3.) For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay : Quitting without leave before ship is secured :
- (4.) For wilful disobedience to any lawful command, he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days pay : Act of disobedience :
- (5.) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit for every twenty-four hours continuance of such disobedience or neglect either a sum not exceeding six days pay, or any expenses which have been properly incurred in hiring a substitute : Continued disobedience :
- (6.) For assaulting any master or mate, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour : Assault on officers :
- (7.) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship, or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour : Combining to disobey :
- (8.) For wilfully damaging the ship, or embezzling, or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour : Wilful damage and embezzlement :
- (9.) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage ; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy. Act of smuggling causing loss to owner.

244. Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the official log book, and shall be signed by the master and also by the mate or one of the crew and the offender, if still in the ship, shall before the next subsequent arrival Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply, if any, to be also entered.

arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey and persons going in ships without leave, to be subject to penalties for breach of discipline.

245. Every seafaring person whom the master of any ship is, under the authority of this Act or of any other Act of Parliament, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters without warrant.

246. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, in any place in Her Majesty's Dominions, with or without the assistance of the local police officers or constables, who are hereby directed to give the same, if required, and also at any place out of Her Majesty's Dominions, if and so far as the laws in force at such place will permit, apprehend him without first procuring a warrant; and may thereupon in any case, and shall in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee who makes the same or causes the same to be made, shall incur a penalty not exceeding twenty pounds:

pounds; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

247. Whenever any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Deserters may be sent on board in lieu of being imprisoned.

248. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end, his services are required on board his ship, any justice may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

249. In all cases of desertion from any ship in any place abroad the master shall produce the entry of such desertion in the official log book to the person or persons hereby required to indorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion; and if such person is a public functionary he shall, and in other cases the said master shall forthwith transmit such copies to the registrar general of seamen in *England*; and the said registrar shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, and certified to have come from the custody of the said registrar, shall, in any legal proceeding relating to such desertion, be received as evidence of the entries therein appearing.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

Facilities for proving desertion, so far as concerns forfeiture of wages.

250. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate in the United Kingdom and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reasons for his leaving his ship.

Costs of procuring imprisonment may to the extent of £3 be deducted from wages.

251. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

252. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a calendar month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

253. All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly; and subject to such reimbursement the same shall be paid into the receipt of Her

Majesty's

Majesty's exchequer in such manner as the treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and in all other cases of forfeiture of wages under the provisions hereinbefore contained the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

254. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Questions of forfeitures may be decided in suits for wages.

255. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding five pounds; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Penalty for false statement as to last ship or name.

256. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows; (that is to say,) if the offender is discharged in the United Kingdom, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship, to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home trade ship, to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such shipping master; and if before the final discharge of the crew in the United Kingdom, any such offender as aforesaid enters into any of Her Majesty's ships, or is discharged abroad, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which

Fines to be deducted from wages, and paid to shipping master.

he so enters, or of the consular officer, officer of customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book (if any) and signed by such officer or other person; and on the return of the ship to the United Kingdom the master or owner shall pay over such fine, in the case of foreign-going ships, to the shipping master before whom the crew is discharged, and, in the case of home trade ships, to the shipping master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct, for which any such fine as aforesaid has been inflicted and paid, shall be otherwise punished under the provisions of this Act.

Penalty for enticing to desert, and harbouring deserters.

257. Every person who, by any means whatever, persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding ten pounds; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding twenty pounds.

Penalty for obtaining passage surreptitiously.

258. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding twenty pounds, or be liable to imprisonment with or without hard labour for any period not exceeding four weeks.

On change of masters, documents hereby required to be handed over to successor.

259. If during the progress of a voyage the master is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one hundred pounds; and such successor shall, immediately on assuming the command of the ship enter in the official log a list of the documents so delivered to him.

Naval Courts on the High Sea and abroad.

260. Any officer in command of any ship of Her Majesty on any foreign station, or, in the absence of such officer, any consular officer, may summon a court, to be termed a "Naval Court," in the following cases; (that is to say,)

Naval Courts may be summoned for hearing complaints, and investigating wrecks on the high seas or abroad.

- (1.) Whenever a complaint, which appears to such officer to require immediate investigation, is made to him by the master of any *British* ship, or by any certificated mate, or by one or more of the seamen belonging to any such ship:
- (2.) Whenever the interest of the owner of any *British* ship or of the cargo of any such ship appears to such officer to require it:
- (3.) Whenever any *British* ship is wrecked or abandoned or otherwise lost at or near the place where such officer may be, or whenever the crew or part of the crew of any *British* ship which has been wrecked, abandoned, or lost abroad, arrives at such place.

261. Every such naval court as aforesaid shall consist of not more than five and not less than three members, of whom, if possible, one shall be an officer in the naval service of Her Majesty not below the rank of lieutenant, one a consular officer, and one a master of a *British* merchant ship, and the rest shall be either officers in the naval service of Her Majesty, masters of *British* merchant ships, or *British* merchants; and such court may include the naval or consular officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against may belong; and the naval or consular officer in such court, if there is only one such officer in the court, or, if there is more than one, the naval or consular officer, who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of such court.

Constitution of such Courts.

262. Every such naval court shall hear and investigate the complaint brought before it, or the cause of the wreck or abandonment, (as the case may be,) and may for that purpose summon and compel the attendance of parties and witnesses, and administer oaths, and order the production of documents, and shall conduct the investigation in such manner as to give any person against whom any charge is made an opportunity of making a defence.

General functions and mode of action of such Courts.

263. Every such naval court may, after hearing the case, exercise the following powers; (that is to say,)

Power of such Courts

(1.)

To supersede
the master :

- (1.) It may, if unanimous that the safety of the ship or crew, or the interest of the owner, absolutely requires it, supersede the master, and may appoint another person to act in his stead ; but no such appointment shall be made without the consent of the consignee of the ship, if then at the place :

To discharge a
seaman :

- (2.) It may discharge any seaman from his ship :

To forfeit
wages :

- (3.) It may order the wages of any seaman so discharged or any part of such wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the receipt of Her Majesty's exchequer in the same manner as other penalties and forfeitures under this Act :

To decide dis-
putes as to
wages, &c. :

- (4.) It may decide any questions as to wages, or fines, or forfeitures, arising between any of the parties to the proceedings :

To direct costs
of imprison-
ment to be
paid out of
wages :

- (5.) It may direct that all or any of the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of such seaman or apprentice, whether then or subsequently earned :

To send home
offenders for
trial :

- (6.) It may exercise the same powers with regard to persons charged before it with the commission of offences at sea or abroad as are by this Act given to *British* consular officers :

To order pay-
ment of costs,
&c.

- (7.) It may order the costs of the proceeding before it (if any), or any portion thereof, to be paid by any of the parties thereto, and may order any person making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby ; and any cost or compensation so ordered shall be paid by such person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from his wages :

And all orders duly made by such court under the powers hereby given to it shall in any subsequent legal proceedings be deemed conclusive as to the rights of the parties.

(*Further powers are given to "Naval Courts" by Imp. Act, 18 & 19 Vict., c. 91, s. 18.*)

Orders to be
entered in offi-
cial log.

264. All orders made by any such naval court shall, whenever practicable, be entered in the official log book of the ship to which the parties to the proceedings before it belong, and shall be signed by the President of the court.

265. Every such naval court shall make a report to the board of trade, containing the following particulars ; (that is to say,) Report to be made of proceedings of naval courts.

- (1.) A statement of the proceedings, with the order made by the court, and a report of the evidence :
- (2.) An account of the wages of any seaman or apprentice who is discharged from his ship by such court :
- (3.) If summoned in order to inquire into a case of wreck or abandonment, a statement of the opinion of the court as to the cause of such wreck or abandonment with such remarks on the conduct of the master and crew as the circumstances require :

And every such report shall be signed by the president of the court ; and every document purporting to be such a report and to be so signed as aforesaid shall, if produced out of the custody of some officer of the board of trade, be deemed to be such report, unless the contrary is proved, and shall be received in evidence, subject to all just exceptions.

266. Any person who wilfully and without due cause prevents or obstructs the making of any such complaint as last aforesaid, or the conduct of any case or investigation by any naval court, shall for each such offence incur a penalty not exceeding fifty pounds, or be liable to imprisonment with or without hard labour for any period not exceeding twelve weeks. Penalty for preventing complaint or obstructing investigation.

Crimes committed on the High Seas and abroad.

267. All offences against property or person committed in or at any place either ashore or afloat out of Her Majesty's Dominions by any master, seaman, or apprentice who at the time when the offence is committed is or within three months previously has been employed in any *British* ship shall be deemed to be offences of the same nature respectively, and be liable to the same punishments respectively, and be inquired of, heard, tried, determined, and adjudged in the same manner and by the same courts and in the same places as if such offences had been committed within the jurisdiction of the Admiralty of *England* ; and the costs and expenses of the prosecution of any such offence may be directed to be paid as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the Admiralty of *England*. Offences committed by British seamen at foreign ports to be within admiralty jurisdiction.

268. The following rules shall be observed with respect to offences committed on the high seas or abroad ; (that is to say,) Conveyance of offenders and witnesses to United King-

dom or some
British Posses-
sion.

- (1.) Whenever any complaint is made to any *British* consular officer of any of the offences mentioned in the last preceding section, or of any offences on the high seas having been committed by any master, seaman, or apprentice belonging to any *British* ship, such consular officer may inquire into the case upon oath, and may if the case so requires take any steps in his power for the purpose of placing the offender under necessary restraint and of sending him as soon as practicable in safe custody to the United Kingdom, or to any *British* Possession in which there is a court capable of taking cognizance of the offence, in any ship belonging to Her Majesty or to any of Her subjects, to be there proceeded against according to law :
- (2.) For the purpose aforesaid such consular officer may order the master of any ship belonging to any subject of Her Majesty bound to the United Kingdom or to such *British* Possession as aforesaid to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the witnesses, so that such master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage ; and such consular officer shall indorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the board of trade requires :
- (3.) Every such master shall, on his ship's arrival in the United Kingdom, or in such *British* Possession as aforesaid, give every offender so committed to his charge into the custody of some police officer or constable, who shall take the offender before a justice of the peace or other magistrate by law empowered to deal with the matter, and such justice or magistrate shall deal with the matter as in cases of offences committed upon the high seas :

And any such master as aforesaid who, when required by any *British* consular officer to receive and afford a passage and subsistence to any offender or witness, does not receive him and afford such passage and subsistence to him, or who does not deliver any offender committed to his charge into the custody of some police officer or constable as hereinbefore directed, shall for each such offence incur a penalty not exceeding fifty pounds ; and the expense of imprisoning any such offender and of conveying him and the witnesses to the United Kingdom or to such *British* Possession as aforesaid in any manner other than in the ship to which they respectively belong, shall be part of the costs of the prosecution, or be paid as costs incurred on account of seafaring subjects of Her Majesty left in distress in foreign parts.

269. Whenever any case of death happens on board any foreign-going ship, the shipping master shall on the arrival of such ship at the port where the crew is discharged inquire into the cause of such death, and shall make on the list of the crew delivered to him as herein required an indorsement to the effect either that the statement of the cause of death therein contained is in his opinion true or otherwise, as the result of the inquiry requires; and every such shipping master shall, for the purpose of such inquiry, have the powers hereby given to inspectors appointed by the board of trade under the first part of this Act; and if in the course of such inquiry it appears to him that any such death as aforesaid has been caused by violence or other improper means, he shall either report the matter to the board of trade, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

Inquiry into cause of death on board.

270. Whenever in the course of any legal proceedings instituted in any part of Her Majesty's Dominions before any judge or magistrate, or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, then upon due proof, if such proceeding is instituted in the United Kingdom, that such witness cannot be found in that Kingdom, or if in any *British Possession*, that he cannot be found in the same Possession, any deposition that such witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's Dominions, or any *British consular officer* elsewhere, shall be admissible in evidence subject to the following restrictions; (that is to say),

Depositions to be received in evidence when witness cannot be produced.

- (1.) If such deposition was made in the United Kingdom, it shall not be admissible in any proceeding instituted in the United Kingdom:
- (2.) If such a deposition was made in any *British Possession*, it shall not be admissible in any proceeding instituted in the same *British Possession*:
- (3.) If the proceeding is criminal it shall not be admissible unless it was made in the presence of the person accused:

Every deposition so made as aforesaid shall be authenticated by the signature of the judge, magistrate, or consular officer, before whom the same is made; and such judge, magistrate, or consular officer shall, when the same is taken in a criminal matter, certify, if the fact is so, and that the accused was present at the taking thereof, but it shall not be necessary in any case to prove the signature or official character of the person

person appearing to have signed any such deposition ; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified ; but nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of Parliament, or by any Act or Ordinance of the Legislature of any Colony, so far as regards such Colony, or to interfere with the power of any Colonial Legislature to make such depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

Registration of and Returns respecting Seamen.

Establishment
of Register
Office.

271. There shall be in the port of *London* an office, to be called the "General Register and Record Office of Seamen," and the board of trade shall have control over the same, and may appoint and from time to time remove a registrar general, and such assistants, clerks and servants as may be necessary, and may from time to time, with the consent of the treasury, regulate their salaries and allowances; and such salaries and allowances, and all other necessary expenses, shall be paid by the treasury out of any monies to be granted by Parliament for that purpose; and the board of trade may direct the business of the register office at any of the outports to be transacted at the shipping office, or, with the consent of the commissioner of customs, at the custom house of the port, and may appoint the shipping master, or, with such consent as aforesaid, some officer of customs, to conduct the same; and such business shall thereupon be conducted accordingly, but shall in all cases be subject to the immediate control of the board of trade.

Register of
seamen to be
kept.

272. The said registrar general of seamen shall, by means of the agreements, lists, and other papers to be transmitted to him as herein directed, or by such other means as are in his power, keep a register of all persons who serve in ships subject to the provisions of this Act.

Lists to be
made for all
ships, contain-
ing certain
particulars.

273. Every master of every foreign-going ship of which the crew is discharged in the United Kingdom, in whatever part of Her Majesty's Dominions the same is registered, and of every home trade ship, shall make out and sign a list in a form sanctioned by the board of trade, containing the following particulars; (that is to say,)

- (1.) The number and date of the ship's register and her registered tonnage :
- (2.) The length and general nature of the voyage or employment :
- (3.)

- (3.) The Christian names, surnames, ages, and places of birth of all the crew, including the master and apprentices, their qualities on board, their last ships or other employments, and the dates and places of their joining the ship :
- (4.) The names of any members of the crew who have died or otherwise ceased to belong to the ship, with the times, places, causes, and circumstances thereof :
- (5.) The names of any members of the crew who have been maimed or hurt, with the times, places, causes, and circumstances thereof :
- (5.) The wages due to any of the crew who have died, at the time of their respective deaths :
- (7.) The clothes and other effects belonging to any of the crew who have died, with a statement of the manner in which they have been dealt with, and the money for which any of them have been sold :
- (8.) The name, age, and sex of every person, not being one of the crew, who dies on board, with the date and the cause thereof :
- (9.) Every birth which happens on board, with the date thereof, the sex of the infant, and the names of the parents :
- (10.) Every marriage which takes place on board, with the date thereof, and the names and ages of the parties.

274. In the case of foreign-going ships, the master shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged such list as hereinbefore required, and if he fails so to do shall for every default incur a penalty not exceeding five pounds ; and such shipping master shall thereupon give to the master a certificate of such delivery ; and no officer of customs shall clear inwards any foreign-going ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Lists for foreign-going ships to be delivered to shipping master on arrival.

275. The master or owner of every home trade ship shall, within twenty-one days after the thirtieth day of *June* and the thirty-first day of *December* in every year, transmit or deliver to some shipping master in the United Kingdom such list as hereinbefore required for the preceding half year, and shall

Lists to be delivered by home trade ships half-yearly.

shall in default incur a penalty not exceeding five pounds ; and such shipping master shall give to the master or owner a certificate of such transmission or delivery ; and no officer of customs shall grant a clearance or *transire* for any home trade ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Lists to be sent home in case of transfer of ship and in case of loss.

276. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home trade ship, the master or owner thereof shall, if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship has belonged such list as hereinbefore mentioned, duly made out to the time at which she ceased to be a foreign-going or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds ; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged such list as hereinbefore mentioned duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

Shipping masters and other officers to transmit documents to registrar.

277. All shipping masters and officers of customs shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where such documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of such purposes, and shall then transmit them to the registrar general of seamen, to be by him recorded and preserved ; and the said registrar shall, on payment of a moderate fee to be fixed by the board of trade, or without payment of any fee if the board of trade so directs, allow any person to inspect the same ; and in cases in which the production of the original of any such document in any court of justice or elsewhere is essential, shall produce the same, and in other cases shall make and deliver to any person requiring it a certified copy of any such document or of any part thereof ; and every copy purporting to be so made and certified shall be received in evidence, and shall have all the effect of the original of which it purports to be a copy.

Registrar to permit inspection, to produce originals, and give copies.

Officers of customs to make returns of ships to registrar.

278. The collector or comptroller of customs at every port in the United Kingdom shall, on or before the first day of *February* and the first day of *August* in every year, transmit to the registrar general of seamen a list of all ships registered in such port, and also of all ships whose registers have been transferred or cancelled in such port since the last preceding return.

279. The following rules shall be observed with respect to the delivery of documents to *British* consular officers ; (that is to say,)

Agreements, indentures, and assignments, on arrival at a foreign port, to be deposited with the consul, and at a colony with the officers of customs.

- (1.) Whenever any ship, in whatever part of Her Majesty's Dominions the same is registered, (except ships whose business for the time being is to carry passengers,) arrives at any foreign port where there is a *British* consular officer, or at any port in any *British* Possession abroad, and remains thereat for forty-eight hours, the master shall, within forty-eight hours of the ship's arrival, deliver to such consular officer, or to the chief officer of customs, (as the case may be,) the agreement with the crew, and also all indentures and assignments of apprenticeships, or, in the case of a ship belonging to a *British* Possession, such of the said documents as such ship is provided with :
- (2.) Such officer shall keep such documents during the ship's stay in such port, and, in cases where any indorsements upon the agreement are hereby required, shall duly make the same, and shall return the said documents to the master a reasonable time before his departure, with a certificate endorsed on the agreement, stating when the same were respectively delivered and returned :
- (3.) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, such officer shall make an indorsement to that effect on the agreement, and forthwith transmit a copy of such indorsement with the fullest information he can collect regarding such neglect or transgression, to the registrar general of seamen :

And if any master fails to deliver any such document as aforesaid he shall for every such default incur a penalty not exceeding twenty pounds ; and in any prosecution for such penalty it shall lie upon the master either to produce the certificate of the consular officer or officer of customs hereinbefore required, or to prove that he duly obtained the same, or that it was impracticable for him so to do.

Official Logs.

280. The board of trade shall sanction forms of official log books, which may be different for different classes of ships, so that each such form contains blanks for the entries hereinafter required ; and an official log of every ship (except ships employed exclusively in trading between ports on the coasts of the United Kingdom) shall be kept in the appropriate sanctioned form ; and such official log may, at the discretion

Official logs to be kept in forms sanctioned by board of trade.

discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

281. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

Entries required in official log.

282. Every master of a ship, for which an official log book is hereby required, shall make or cause to be made therein entries of the following matters; (that is to say,)

- | | |
|--------------------------------|--|
| Convictions. | (1.) Every legal conviction of any member of his crew, and the punishment inflicted : |
| Offences. | (2.) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry, and concerning the reply (if any) made to the charge, as hereinbefore required. |
| (<i>See Sec. 244, ante.</i>) | |
| Punishments. | (3.) Every offence for which punishment is inflicted on board, and the punishment inflicted : |
| Conduct, &c., of crew. | (4.) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars : |
| Illnesses and injuries. | (5.) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any) : |
| Deaths. | (6.) Every case of death happening on board, and of the cause thereof : |
| Births. | (7.) Every birth happening on board, with the sex of the infant and the names of the parents : |
| Marriages. | (8.) Every marriage taking place on board, with the names and ages of the parties : |
| Quitting ship. | (9.) The name of every seaman and apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner, and cause thereof : |

(10.)

- (10.) The amount of wages due to any seaman who enters Her Majesty's service during the voyage : Wages of men entering navy.
- (11.) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom : Wages of deceased seamen.
- (12.) The sale of effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it : Sale of deceased men's effects.
- (13.) Every collision with any other ship, and the circumstances under which the same occurred. Collisions.

283. The entries hereby required to be made in official log books shall be signed as follows; that is to say, every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, or death shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to or of the sale of the effects of any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew; and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master, and by the seaman or by the officer authorized to receive the seaman into such service. Entries how to be signed.

284. The following offences in respect of official log books shall be punishable as hereinafter mentioned; (that is to say,) Penalties in respect of official logs.

- (1.) If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding five pounds :
- (2.) Every person who makes or procures to be made or assists in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding thirty pounds :
- (3.) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be deemed guilty of a misdemeanor.

Entries in official logs to be received in evidence.

285. All entries made in any official log book as hereinbefore directed shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions.

Official logs to be delivered to shipping master.

286. In the case of foreign-going ships the master shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged the official log book of the voyage; and the master or owner of every home trade ship, not exclusively employed in trading between ports on the coasts in the United Kingdom, shall, within twenty-one days after the thirtieth day of *June* and the thirty-first day of *December* in every year, transmit or deliver to some shipping master in the United Kingdom the official log book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log book as hereby required shall be subject to the same consequences and liabilities to which he is hereby made subject for the non-delivery of the list of his crew hereinbefore mentioned.

Official logs to be sent home in case of transfer of ship, and in case of loss.

287. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home-trade ship, the master or owner thereof shall if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any) duly made out to the time at which she ceased to be a foreign-going or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

East Indies and Colonies.

Provisions of Act, as applied by East Indian and Colonial Governments to their own ships, may be enforced throughout the Empire.

288. If the Governor-General of *India* in Council or the respective legislative authorities in any *British Possession* abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any *British* ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall, in respect of the ships and persons to which the same are applied,

plied, be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted, throughout Her Majesty's Dominions, in the same manner as if such provisions had been hereby so adopted and applied, and such penalties and punishments had been hereby expressly imposed.

289. Every Act, Ordinance, or other form of law to be passed or promulgated by the Governor-General of India in Council, or by any other legislative authority, in pursuance of this Act, shall respectively be subject to the same rights of disallowance or repeal, and require the same sanction or other acts and formalities, and be subject to the same conditions in all respects, as exist and are required in order to the validity of any other Act, Ordinance, or other form of law passed by such Governor-General in Council or other legislative authority respectively.

East Indian and Colonial Acts to be subject to disallowance, and require sanction as in other cases.

290. If in any matter relating to any ship or to any person belonging to any ship there appears to be conflict of laws, then, if there is in the third part of this Act any provision on the subject which is hereby expressly made to extend to such ship, the case shall be governed by such provision, and if there is no such provision the case shall be governed by the law of the place in which such ship is registered.

Conflict of laws.

PART IV.

SAFETY AND PREVENTION OF ACCIDENTS.

Application.

291. The fourth part of this Act shall apply to all British ships; and all foreign steam ships carrying passengers between places in the United Kingdom shall be subject to all the provisions contained in the fourth part of this Act, and likewise to the same provisions with respect to the certificates of the masters and mates thereof to which British steam ships are subject.

Application of Part IV. of Act.

(Sec. 292 prescribes certain rules with respect to boats and life-buoys to be carried by certain ships proceeding to sea from any place in the United Kingdom.)

(Sec. 293 provides penalties in case of masters or owners of such ships neglecting to provide boats and life-buoys.)

(Sec.

(Sec. 294 provides that officers of customs should not clear ships not complying with the above provisions.)

(Secs. 295–299 prescribe rules for the use of lights and fog-signals, and the meeting and passing of ships, but this subject so far as relates to the navigation of Canadian waters is governed by Dom. Act, 31 Vict., c. 58, and see Dom. Act, 32 & 33 Vict., c. 22, s. 53.)

Build and Equipment of Steam Ships.

(Sec. 300 prescribed certain rules, requiring the steamers therein mentioned to be divided by water-tight partitions, but is repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2.)

Equipment of
steam ships.

301. Steam ships shall be provided as follows ; (that is to say,)

- Safety valve.** (1.) Every steam ship of which a survey is hereby required shall be provided with a safety valve upon each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if such valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less and a pressure not greater than the area of and pressure on that valve :
- Compasses to be adjusted.** (2.) Every sea-going steam ship employed to carry passengers shall have her compasses properly adjusted from time to time ; such adjustment, in the case of ships surveyed as hereinafter mentioned, to be made to the satisfaction of the shipwright surveyor, and according to such regulations as may be issued by the board of trade :
- Fire hose.** (3.) Every sea-going steam ship (unless used solely as a steam tug) shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship and capable of being connected with the engines of the ship :
- Signals** (4.) Every sea-going steam ship employed to carry passengers shall be provided with the following means of making signals of distress ; (that is to say,) twelve blue lights or twelve port fires, and one cannon with ammunition for at least twelve charges, or, in the discretion of the master or owner of such ship, with such other means of making signals (if any) as may have previously been approved by the board of trade :
- Shelter for deck passengers.** (5.) Every home trade steam ship employed to carry passengers by sea shall be provided with such shelter for the protection of deck passengers (if any) as the board of trade,

trade, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, may require.

And if any steam ship as aforesaid plies or goes to sea from any port in the United Kingdom without being so provided as hereinbefore required, then, for each default in any of the above requisites, the owner shall (if he appears to be in fault) incur a penalty not exceeding one hundred pounds, and the master shall (if he appears to be in fault) incur a penalty not exceeding fifty pounds.

302. If any person places an undue weight on the safety valve of any steam ship, or, in the case of steam ships surveyed as hereinafter mentioned, increases such weight beyond the limits fixed by such engineer surveyor as hereinafter mentioned, he shall, in addition to any other liabilities he may incur by so doing, incur a penalty not exceeding one hundred pounds.

Penalty for improper weight on safety valve.

(See Dom. Acts relating to steamboats and their inspection.)

(Secs. 303–321 relate to the survey in the United Kingdom of steam ships carrying passengers to and from and between places in the United Kingdom. See Dom. Acts respecting steamboats and their inspection.)

Misconduct by Passengers in Steamers.

(Secs. 322 & 323 defined certain offences by passengers and prescribed penalties therefor, but are repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2, and see Secs. 35–38 of that Act. See also Dom. Acts on this subject.)

324. Every person who, having committed any of the offences mentioned in the two last preceding sections or either of them, refuses on application of the master of the ship or of any other person in the employ of the owner thereof to give his name and address, or who on such application gives a false name or address, shall incur a penalty not exceeding twenty pounds, to be paid to the said owner.

Penalty on persons refusing to give their name and address

325. The master of any home trade passenger steam ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance to other passengers on board, or if such person is on board, may put him on shore at any convenient place; and no person so refused admittance or put on shore shall be entitled to the return of any fare he may have paid.

Power to refuse or remove passengers who are drunk or misconduct themselves.

Accidents.

Accidents.

Accidents to
steam ships to
be reported to
board of trade.

326. Whenever any steam ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, within twenty-four hours after the happening of such accident or damage, or as soon thereafter as possible, send to the board of trade, by letter signed by such owner or master, a report of such accident or damage, and of the probable occasion thereof, stating the name of the ship, the port to which she belongs, and the place where she is; and if such owner or master neglect so to do he shall for such offence incur a penalty not exceeding fifty pounds.

(Sec. 327 required notice to be given of the apprehended loss of any steam ship and is repealed by Imp. Act 36 & 37 Vict., c. 85, s. 33, and see sec. 22 of that Act.)

Collisions to
be entered in
official log

328. In every case of collision, in which it is practicable so to do, the master shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book (if any), such entry to be signed by the master, and also by the mate or one of the crew, and in default shall incur a penalty not exceeding twenty pounds.

(Sec. 329 related to the carrying of dangerous goods and is repealed by Imp. Act 36 & 37 Vict., c. 85, s. 33, and see ss. 23-28 of that Act.)

PART V.

PILOTAGE.

(Secs. 330-388 inclusive form the fifth part of the Act and related to pilotage. The application of this part of the Act is limited to the United Kingdom by sec. 330.)

PART VI.

LIGHTHOUSES.

(This part (secs. 389-416 inclusive) relate only to light-houses in the United Kingdom and the adjacent islands and seas and in Heligoland and Gibraltar.)

PART VII.

MERCANTILE MARINE FUND.

(Part VII. (Secs. 417—431 inclusive) has no application to this Colony.)

PART VIII.

WRECKS, CASUALTIES, AND SALVAGE.

(Secs. 432—501 form Part VIII. and all these secs. except the following relate only to wrecks and casualties on or near the coasts of the United Kingdom and to salvage in the United Kingdom and the adjacent islands or have no application to inland waters.)

Salvage by Her Majesty's Ships.

484. In cases where salvage services are rendered by any ship belonging to Her Majesty or by the commander or crew thereof, no claim shall be made or allowed for any loss, damage, or risk thereby caused to such ship, or to the stores, tackle, or furniture thereof, or for the use of any stores or other articles belonging to Her Majesty supplied in order to effect such services, or for any other expense or loss sustained by Her Majesty by reason of such services.

No claim for salvage services to be allowed in respect of loss or risk of Her Majesty's ships or property.

485. No claim whatever on account of any salvage services rendered to any ship or cargo or to any appurtenances of any ship by the commander or crew or part of the crew of any of Her Majesty's ships shall be finally adjudicated upon unless the consent of the admiralty has first been obtained, such consent to be signified by writing under the hand of the secretary to the admiralty; and if any person who has originated proceedings in respect of any such claim fails to prove such consent to the satisfaction of the court, his suit shall stand dismissed and he shall pay all the costs of such proceedings; provided that any document purporting to give such consent and to be signed by the secretary to the admiralty shall be *prima facie* evidence of such consent having been given.

Claims for salvage by Her Majesty's officers not to be determined without consent of Admiralty.

486. Whenever services for which salvage is claimed are rendered to any ship or cargo, or to any part of any ship or cargo, or to any appurtenances of any ship, at any place out of the United Kingdom and the four seas adjoining thereto,

Steps to be taken when salvage services have been rendered by Her Majesty's ships abroad.

by the commander or crew or part of the crew of any of Her Majesty's ships, the property alleged to be salvaged shall, if the salvor is justified by the circumstances of the case in detaining it at all, be taken to some port where there is either a consular officer or a vice-admiralty court; and within twenty-four hours after arriving at such port the said salvor and the master or other person in charge of the property alleged to be salvaged shall each deliver to the consular officer or vice-admiralty judge there a statement verified on oath, specifying, so far as they respectively can, and so far as the particulars required apply to the case,

- (1.) The place, condition, and circumstances in which the said ship, cargo, or property was at the time when the services were rendered for which salvage is claimed :
- (2.) The nature and duration of the services rendered :

And the salvor shall add to his statement,

- (3.) The proportion of the value of the said ship, cargo, and property, and of the freight which he claims for salvage, or the values at which he estimates the said ship, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same :
- (4.) Any other circumstances he thinks relevant to the said claim :

And the said master or other person in charge of the said ship, cargo, or property shall add to his statement,

- (3.) A copy of the certificate of registry of the said ship, and of the indorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in such certificate; and stating also, to the best of his knowledge and belief, the state of the title to the ship for the time being, and of the incumbrances and certificates of mortgage or sale (if any) affecting the same, and the names, and places of business of the owners and incumbrancers :
 - (4.) The name and place of business or residence of the freighter (if any) of the said ship, and the freight to be paid for the voyage she is then on :
 - (5.) A general account of the quantity and nature of the cargo at the time the salvage services were rendered :
 - (6.) The name and place of business or residence of the owner of such cargo and of the consignee thereof :
- (7.)

- (7.) The values at which the said master estimates the said ship, cargo, and property, and the freight respectively, or, if he thinks fit, in lieu of such estimated value of the cargo, a copy of the ship's manifest :
- (8.) The amounts which the master thinks should be paid as salvage for the services rendered :
- (9.) An accurate list of the property saved, in cases where the ship is not saved :
- (10.) An account of the proceeds of the sale of the said ship, cargo, or property, in cases where the same or any of them are sold at such port as aforesaid :
- (11.) The number, capacities, and condition of the crew of the said ship at the time the said services were rendered :
- (12.) Any other circumstances he thinks relevant to the matters in question :
- (13.) A statement of his willingness to execute a bond, in the form in the table marked W. in the schedule hereto, in such amount as the said consular officer or vice-admiralty judge may fix.

487. The said consular officer or judge, as the case may be, shall, within four days after receiving the aforesaid statements, fix the amount to be inserted in the said bond at such sum as he thinks sufficient to answer the demand for the salvage services rendered ; but such sum shall not exceed one-half of the value which in his estimation the said ship, freight, and cargo, or any parts thereof in respect of which salvage is claimed, are worth ; and the said consular officer or judge may, if either of the aforesaid statements is not delivered to him within the time hereby required, proceed *ex parte*, but he shall in no case under this Act require the cargo to be unladen ; and the said consular officer may in any proceeding under this Act relating to salvage take affidavits and receive affirmations.

Consular officer or judge to fix an amount for which a bond is to be given.

488. The said consular officer or judge shall send notice of the sum which he has so fixed as aforesaid to the said salvor and the said master ; and upon such master executing a bond in such form as aforesaid, with the said sum inserted therein, in the presence of the said officer or judge (who shall attest the same), and delivering the same to the said salvor, the right of the said salvor to detain or retain possession of the said ship, cargo, or property, or any of them, in respect of the said salvage claim, shall cease.

On master executing bond, the right of detention to cease.

Provisions for additional security in the case of ships owned by persons resident out of Her Majesty's Dominions.

489. If the ship, cargo, or property in respect of which the claim for salvage is made is not owned by persons domiciled in Her Majesty's Dominions, the right of the salvor to detain or retain possession thereof shall not cease unless the master procures, in addition to the said bond, such security for the due performance of the conditions thereof as the said officer or judge considers sufficient for the purpose, and places the same in the possession or custody of the said officer or judge, or if the salvor so desires, in the possession or custody of the said officer or judge jointly with any other person whom the said salvor appoints for the purpose.

Documents to be sent to England.

490. The said consular officer or judge shall at the earliest opportunity transmit the said statements and documents so sent to him as aforesaid, and a notice of the sum he has so fixed as aforesaid, to the high court of admiralty of *England*, or if the said salvor and the said master or other person in charge as aforesaid agree that the said bond shall be adjudicated upon by any vice-admiralty court, to such court.

Whom the bond shall bind.

491. The said bond shall bind the respective owners of the said ship, freight, and cargo, and their respective heirs, executors, and administrators, for the salvage adjudged to be payable in respect of the said ship, freight, and cargo respectively.

Court in which it is to be adjudicated on.

492. The said bond shall be adjudicated on and enforced by the high court of admiralty in *England*, or if the said salvor and master at the time of the execution of the said bond agree upon any vice-admiralty court, then by such vice-admiralty court; and any such vice-admiralty court may in every proceeding under this Act have and exercise all powers and authorities whatsoever which the said high court of admiralty now has or at any time may have, in any proceeding whatsoever before it; and in cases where any security for the due performance of the conditions of the said bond has been placed in the possession or custody of the said consular officer or vice-admiralty judge or of such officer or judge jointly with any other person, the person or persons having the custody of such security shall respectively deal with the same in such manner as the court that adjudicates on the bond directs.

Power of high court of admiralty to enforce bonds.

493. The said high court of admiralty shall have power to enforce any bond given in pursuance of this Act in any vice-admiralty court in any part of Her Majesty's Dominions; and all courts in *Scotland*, *Ireland*, and the islands of *Jersey*, *Guernsey*, *Alderney*, *Sark*, and *Man* exercising admiralty jurisdiction shall, upon application, aid and assist the high court of admiralty in enforcing the said bonds.

494. Any such salvor as aforesaid of any ship, cargo or Saving clause. property who elects not to proceed under this Act shall have no power to detain the said ship, cargo, or property, but may proceed otherwise for the enforcement of his salvage claim as if this Act had not been passed; and nothing in this Act contained shall abridge or affect the rights of salvors, except in the cases by it provided for.

495. All bonds, statements, agreements, and other documents made or executed in pursuance of the eighth part of Documents free from duty. this Act shall, if so made or executed out of the United Kingdom, be exempt from stamp duty.

496. Every person who, in any proceeding under provisions contained in the eighth part of this Act relating to salvage by Her Majesty's ships, forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in any such proceeding puts off or makes use of any such forged or altered document, knowing the same to be so forged or altered, or who in any such proceeding gives or makes, or assists in giving or making, or procures to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with imprisonment, with or without hard labour, for any period not exceeding two years, or, if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months. Punishment for forgery and false representations.

Salvage, General.

497. Whenever services for which salvage is claimed are rendered either by the commander or crew or part of the crew of any of Her Majesty's ships, or of any other ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salvaged, upon the master or other person in charge thereof entering into a written agreement attested by two witnesses to abide the decision of the said high court of admiralty or of any vice-admiralty court, and thereby giving security in that behalf to such amount as may be agreed on by the parties to the said agreement, such agreement shall bind the said ship and the said cargo and the freight payable therefor respectively, and the respective owners of the said ship, freight, and cargo for the time being, and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the said ship, cargo, and freight respectively to the extent of the security so given as aforesaid, and may be adjudicated upon and enforced in the same manner as the bonds provided Voluntary agreement may be made which shall have the same effect as the bond above mentioned. for

for by the eighth part of this Act, in the case of detention for salvage services rendered by Her Majesty's ships; and upon such agreement being made the salvor and the master or other person in charge as aforesaid shall respectively make such statements as are hereinbefore required to be made by them in case of a bond being given, except that such statements need not be made upon oath; and the salvor shall, as soon as practicable, transmit the said agreement and the said statements to the court in which the said agreement is to be adjudicated upon.

Powers for
courts having
admiralty
jurisdiction to
apportion sal-
vage.

498. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingdom has been finally ascertained, and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever such amount may be, then if any delay or dispute arises as to the apportionment thereof, any court having admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just; and may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into court, to be there dealt with as the court may direct, and may for the purposes aforesaid issue such monitions or other processes as it thinks fit.

(Secs. 498-501 relate only to the United Kingdom. As to wreck and salvage within the limits of Canada, see Dom. Act, 36 Vict., c. 55.)

PART IX.

LIABILITY OF SHIPOWNERS.

Application.

502. The ninth part of this Act shall apply to the whole of Her Majesty's Dominions. Application of Part IX of Act.

Limitation of Liability.

503. No owner of any sea-going ship or share therein shall be liable to make good any loss or damage that may happen without his actual fault or privity of or to any of the following things, (that is to say,) Owner not liable in respect of certain articles.

- (1.) Of or to any goods, merchandise, or other things whatsoever taken in or put on board any such ship, by reason of any fire happening on board such ship.
- (2.) Of or to any gold, silver, diamonds, watches, jewels, or precious stones taken in or put on board any such ship, by reason of any robbery, embezzlement, making away with or secreting thereof, unless the owner or shipper thereof has, at the time of shipping the same, inserted in his bills of lading or otherwise declared in writing to the master or owner of such ship the true nature and value of such articles,

To any extent whatever.

(Sec. 504 limited the liability of the owner in certain cases, but is repealed by Sec. 2 of Imp. Act, 25 & 26 Vict., c. 63, and other provision on the same subject is made by Sec. 54 of that Act.)

(Sec. 505 provided that for the purposes of the ninth part of this Act, the freight should be deemed to include the value of the carriage of any goods or merchandise belonging to the owners of the ship, passage money, and also the hire due or to grow due under or by virtue of any contract, except only such hire, in the case of a ship hired for time, as might not begin to be earned until the expiration of six months after such loss or damage, but is repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2.)

506. The owner of every sea-going ship or share therein shall be liable in respect of every such loss of life, personal injury, loss of or damage to goods as aforesaid arising on distinct occasions to the same extent as if no other loss, injury, or damage had arisen. Provision for separate losses.

(See Imp. Act, 25 & 26 Vict., c. 63, s. 56.)

Mode

Mode of Procedure.

(Secs. 507-513 inclusive regulate the mode of procedure in such cases in the United Kingdom.)

Proceedings
in case of
several claims
being made on
owner of ship.

514. In cases where any liability has been or is alleged to have been incurred by any owner in respect of loss of life, personal injury, or loss of or damage to ships, boats, or goods, and several claims are made or apprehended in respect of such liability, then, subject to the right hereinbefore given to the board of trade of recovering damages in the United Kingdom in respect of loss of life or personal injury, it shall be lawful in *England* or *Ireland* for the high court of chancery, and in *Scotland* for the court of session, and in any *British* Possession for any competent court to entertain proceedings at the suit of any owner for the purpose of determining the amount of such liability subject as aforesaid, and for the distribution of such amount rateably amongst the several claimants, with power for any such court to stop all actions and suits pending in any other court in relation to the same subject matter and any proceeding entertained by such court of chancery or court of session, or other competent court, may be conducted in such manner and subject to such regulations as to making any person interested parties to the same, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of costs, as the court thinks just.

Money paid
for damage
how to be ac-
counted for
between part
owners.

515. All sums of money paid for or on account of any loss or damage in respect whereof the liability of the owners of any ship is limited by the ninth part of this Act, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

Saving Clause.

Saving clause.

516. Nothing in the ninth part of this Act contained shall be construed—

To lessen or take away any liability to which any master or seaman, being also owner or part owner of the ship to which he belongs, is subject in his capacity of master or seaman ; or

To extend to any *British* ship not being a recognized *British* ship within the meaning of this Act.

PART X.

LEGAL PROCEDURE.

Application.

517. The tenth part of this Act shall in all cases, where Application of Part X of the Act. no particular country is mentioned, apply to the whole of Her Majesty's Dominions.

Legal Procedure (General.)

(See *Dom. Act*, 38 Vict., c. 29.)

518. In all places within Her Majesty's Dominions, except *Scotland*, the offences hereafter mentioned shall be punished and penalties recovered in manner following; (that is to say,) Punishment of offences, and recovery of penalties.

(1.) Every offence declared by this Act to be a misdemeanour shall be punishable by fine or imprisonment, with or without hard labour; and the court before which such offence is tried may in *England* make the same allowances and order payment of the same costs and expenses as if such misdemeanour had been enumerated in the Act passed in the seventh year of His late Majesty King George the Fourth, chapter sixty-four, or any other Act 7 G 4, c. 64. that may be passed for the like purpose; and may in any other part of Her Majesty's Dominions make such allowances and order payment of such costs and expenses (if any) as are payable or allowable upon the trial of any misdemeanour under any existing Act or Ordinance, or as may be payable or allowable under any Act or law for the time being in force therein :

(2.) Every offence declared by this Act to be a misdemeanour shall also be deemed to be an offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by a penalty not exceeding one hundred pounds, and may be prosecuted accordingly in a summary manner instead of being prosecuted as a misdemeanour :

(*Sub-Secs. 3 & 4 applied only to proceedings in England and Ireland.*)

(5.) All offences under this Act shall in any *British Possession* be punishable by any court or by any justice of the peace or magistrate in which or by whom offences of a like character are ordinarily punishable, or in such other manner, or by such other courts, justices, or magistrates,

trates, as may from time to time be determined by any Act or Ordinance duly made in such Possession in such manner as Acts and Ordinances in such Possession are required to be made in order to have the form of law.

Stipendiary
magistrate to
have same
power as two
justices.

519. Any stipendiary magistrate shall have full power to do alone whatever two justices of the peace are by this Act authorized to do.

Offence where
deemed to
have been
committed.

520. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Jurisdiction
over ships
lying off the
coasts.

521. In all cases where any district within which any court or justice of the peace or other magistrate has jurisdiction either under this Act or any other Act or at common law, for any purpose whatever, is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice of the peace, or magistrate, shall have jurisdiction over any ship or boat being on or lying or passing off such coast, or being in or near such bay, channel, lake, river, or navigable water as aforesaid, and over all persons on board such ship or boat or for the time being belonging thereto, in the same manner as if such ship, boat, or persons were within the limits of the original jurisdiction of such court, justice or magistrate.

Service to be
good if made
personally, or
on board ship.

522. Service of any summons or other matter in any legal proceeding under this Act shall be good service, if made personally on the person to be served, or at his last place of abode, or if made by leaving such summons for him on board any ship to which he may belong with the person being or appearing to be in command or charge of such ship.

Sums ordered
to be paid
leviable by
distress on
ship.

523. In all cases where any court, justice or justices of the peace, or other magistrate, has or have the power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, justice or justices, or other magistrate who made the order, may, in addition to any other powers they or he may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or pointing and sale of the said ship, her tackle, furniture and apparel.

524. Any court, justice, or magistrate imposing any penalty under this Act, for which no specific application is herein provided, may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the United Kingdom shall be paid into the receipt of Her Majesty's exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and all penalties recovered in any *British Possession* shall be paid over into the public treasury of such Possession, and form part of the public revenue thereof.

Application of
penalties.

525. The time for instituting summary proceedings under this Act shall be limited as follows; (that is to say,)

Limitation of
time in sum-
mary proceed-
ings.

- (1.) No conviction for any offence shall be made under this Act in any summary proceedings instituted in the United Kingdom unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to such proceeding happen during such time to be out of the United Kingdom, unless the same is commenced within two months after they both first happen to arrive or to be at one time within the same:
- (2.) No conviction for any offence shall be made under this Act in any proceeding instituted in any *British Possession*, unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within two months after they both first happen to arrive or to be at one time within such jurisdiction:
- (3.) No order for the payment of money shall be made under this Act in any summary proceeding instituted in the United Kingdom unless such proceeding is commenced within six months after the cause of complaint arises; or, if both or either of the parties happen during such time to be out of the United Kingdom, unless the same is commenced within six months after they both first happen to arrive or to be at one time within the same:
- (4.) No order for the payment of money shall be made under this Act in any summary proceeding instituted in any *British*

British Possession unless such proceeding is commenced within six months after the cause of complaint arises; or, if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction, of any court capable of dealing with the case, unless the same is commenced within six months after they both first happen to arrive or be at one time within such jurisdiction:

And no provision contained in any other Act or Acts, Ordinance or Ordinances, for limiting the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

Document
proved with-
out calling
attesting wit-
nesses.

526. Any document required by this Act to be executed in the presence of or to be attested by any witness or witnesses, may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses or any of them.

(Sec 527 gives power to Courts of Record or Admiralty in the United Kingdom to arrest any foreign ship which has occasioned damage to property of Her Majesty or of Her subjects.)

(Sec. 528 gives power to certain officers to detain such foreign ships in certain cases without an application to the Court.)

(Sec. 529 provided who should be defendants in such cases.)

(Secs. 530—543 inclusive govern legal procedure in Scotland under this Act.)

PART XI.

MISCELLANEOUS.

(Sec. 544 legalized certain contracts with Lascars or natives of the East Indies to serve as seamen.)

545. Nothing in this Act contained shall be taken to repeal or alter any of the provisions of the "Passengers Act, 1852," or of the Act of the seventeenth year of Her present Majesty, chapter eighty-four. Act not to affect passenger Acts, 15 & 16, Vict. c. 44, 16 & 17 Vict., c. 84.

(Sec. 546 provided for the granting of sites for sailors' homes in British seaports.)

547. The Legislative Authority of any British Possession shall have power, by any Act or Ordinance, confirmed by Her Majesty in Council, to repeal, wholly or in part, any provisions of this Act relating to ships registered in such Possession; but no such Act or Ordinance shall take effect until such approval has been proclaimed in such Possession or until such time thereafter as may be fixed by such Act or Ordinance for the purpose. Power of colonial legislatures to alter provisions of Act.

548. All expenses incurred by the commissioners of customs in the conduct of suits or prosecutions, or otherwise in carrying into effect the provisions of this Act, shall be considered as expenses having reference to the revenue of customs, and shall be paid out of the consolidated customs; but the board of trade may, with the consent of the treasury, repay out of the mercantile marine fund all or any part of such of the expenses so paid as are by the provisions of this Act chargeable on the said fund. Expenses incurred by commissioners of customs to be paid out of the consolidated customs.

SCHEDULE to which this Act refers.

FORM A. (See Section 36.)

CERTIFICATE OF SURVEYOR.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.	
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>	
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit.</i>	Build.....	<i>Carvel or Clincher.</i>	
Number of Masts.		Gallery	<i>Description of.</i>	
Rigging		Head.....	<i>Kind of.</i>	
Stern.....		Framework ..	<i>Wood or other material.</i>	
<i>Measurements.</i>			Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....				
Main breadth to outside of plank.....				
Depth in hold from tonnage deck to ceiling at midships.				
<i>Tonnage.</i>			No. of Tons.	
Tonnage under tonnage deck.....				
Closed-in spaces above the tonnage deck, if any; viz....				
Space or spaces between decks.....				
Poop.....				
Roundhouse.....				
Other inclosed spaces, if any, naming them.....				
Total.....				
<i>(a) Additional Particulars for Steamers.</i>			Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ ths or $\frac{32}{100}$ ths, or as measured).....				
			Feet.	Tenths.
Length of engine room (if measured).....				
Engines			Number of Engines.	
			No. of Horses-power.	
Combined power (estimated horse-power).....				
Register tonnage, (after making deduction for) Space for propelling power in steamers) (a) }				

(a) Omit this part if she has no steam power.

I, the undersigned A. B., of , having surveyed the above-named ship, hereby certify that the above particulars are true.

Dated at

the

day of

18 .

(Signed) _____

FORM

FORM B. (See Section 38.)

DECLARATION OF OWNERSHIP BY INDIVIDUAL OWNER.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.
Number of Decks.		Build	Carvel or Clincher.
Number of Masts.		Gallery	Description of.
Rigging	Nature of, and whether standing or running Bowsprit.	Head	Kind of
Stern	Round, square or other description.	Framework...	Wood or other material.
Measurements.			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.			No. of Tons.
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any; viz....			
Space or spaces between decks			
Poop			
Roundhouse			
Other inclosed spaces, if any, naming them			
Total			
(a) Additional Particulars for Steamers.			Tons.
Deduction for space required for propelling power (say whether $\frac{37}{100}$ ths or $\frac{32}{100}$ ths, or as measured)			
			Feet. Tenths.
Length of engine room (if measured)			
Engines			Number of Engines.
Combined power (estimated horse-power)			No. of Horse-power.
Register tonnage, (after making deduction for) Space for propelling power in steamers) (a) }			

(a) Omit this part if she has no steam power.

I, the undersigned A. B. of
as follows :
(1.) I am a natural born British subject, born at [naming birth-place],
and have since I took the Oath of Allegiance to a Foreign State [naming State], and on the day of , taken the Oath of Allegiance to Her Majesty, and am resident at* [naming place], being a place within Her Majesty's Dominions.
or
I am

* If the Declarant is a natural-born subject, who has taken the Oath of Allegiance to a Foreign State, or a denizen or naturalized subject, and is resident in a country not within Her Majesty's Dominions, he must declare, in

addition, that
 "he is a mem-
 "ber of some
 "British fac-
 "tory, or part-
 "ner in some
 "house actually
 "carrying on
 "business in the
 "United King-
 "dom, or in
 "some British
 "Possession"
 [naming the
 house and also
 the place where
 it carries on its
 business].

I am

a denizen by Let-
 ters of Denization
 dated the
 day of

{ naturalized by Act of
 Parliament of the
 United Kingdom of
 [cite the year of
 the Reign in which
 the Act was passed,
 its Chapter and
 Title.

or

{ naturalized by an
 Ordinance of the
 proper Legislative
 Authority of
 [naming British
 Possession], [cite
 the year in which
 the Ordinance was
 passed, its Chapter
 and Title.

or

and am resident at [naming place], being a place within Her Majesty's Domi-
 nions.

And I have

since I so became a }
 denizen, }
 and on the day of

or

{ since the passing of the said Act or Ordi-
 nance
 taken the Oath of Allegiance to Her
 Majesty.

(2.) The ship, the description of which is prefixed to this my declaration,
 was built at
 [naming the coun-
 try and place] on
 the day of
 , and her
 Foreign name is
 [these words to be
 added if the ship is
 Foreign.]

or

{ is Foreign-built, and
 I do not know the
 time when or the
 place where she
 was built, and her
 Foreign name is

or

{ was condemned by
 the Court of [nam-
 ing Court] on the
 day of
 at

(3.) C. D.

of

is the master of the said ship.

"If the Decla-
 ration is made
 by a joint
 owner, add the
 word "joint"
 before owner.

(4.) I am entitled to be registered as* owner of shares in the
 said ship.

(5.) To the best of my knowledge and belief, no person or body of persons,
 other than such person or bodies of persons as are by The Merchant Shipping
 Act, 1854, qualified to be owners of British ships, is entitled as owner to any
 interest whatever, either legal or beneficial in the said ship.

And I make this solemn declaration conscientiously believing the same to be
 true.

Dated at
 the day of 18 .

(Signed) _____

Made and subscribed by the above-
 named A. B. in the presence of
 me.

(Signed) _____ [Name of Registrar or Justice of the
 Peace acting in and for]

FORM C. (See Section 39.)

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS OWNER.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.		Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging	<i>Nature of, and whether standing or running Bowsprit.</i>	Head	<i>Kind of</i>
Stern	<i>Round, square, or other description.</i>	Framework...	<i>Wood or other material.</i>
<i>Measurements.</i>			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>			No. of Tons.
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any, viz....			
Space or spaces between decks			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
<i>(a) Additional Particulars for Steamers.</i>			Tons.
Deduction for space required for propelling power (say whether $\frac{37}{100}$ ths or $\frac{32}{100}$ ths, or as measured).....			Feet. Tenths.
Length of engine room (if measured).....			Number of Engines.
Engines			No. of Horses-power.
Combined power (estimated horse-power)			
Register tonnage, (after making deduction for) Space for propelling power in steamers) (a) }			

(a) *Omit this part if she has no steam power.*

I, the undersigned *A. B.*, of in the County of [Secretary]
or [duly appointed public officer], of the Company, declare as follows:

(1.) The said Company was incorporated by or by virtue of

an Act of Par- liament of the United King- dom [<i>cite the year of the Reign in which the Act was passed, its Chapter and Title.</i>]	} or {	{ a Charter granted by Her Majesty, and dated the day of	} or {	{ an Act or Ordi- nance of the Legislature of [<i>cite the year in which the Act or Ordi- nance was passed, its Chapter and Title.</i>]	} or {	{ the Act, 7 & 8 Vict., c. 110, from the day of being the date of the cer- tificate of com- plete registra- tion.
---	--------	--	--------	--	--------	---

(2.) The said Company is subject to the laws

of the United Kingdom, } or { or of the British Possession of

and has its principal place of business at

(3.) The ship, the description of which is prefixed to this my Declaration,

was built at [<i>naming the country and place</i>] on the day of her Foreign name is [<i>These words to be added if the ship is Foreign.</i>]	} or {	{ is Foreign-built, and I do not know the time when or the place where she was built, and her Fo- reign name is	} or {	{ was condemned by the Court of [<i>naming Court</i>] on the day of at
---	--------	--	--------	---

(4.) C. D. of is the Master of the said ship.

(5.) The said Company is entitled to be registered as owner of shares in the said ship.

(6.) To the best of my knowledge and belief, no person or body of persons, other than such persons or bodies of persons as are by The Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn Declaration conscientiously believing the same to be true.

(Signed) _____

Dated at
the day of 18 .

Made and subscribed by the above-named A. B.
in the presence of me

(Signed) _____ [Name of Registrar.]

FORM D. (See Section 44.)

CERTIFICATE OF REGISTRY.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit.</i>	Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head	<i>Kind of.</i>
Stern		Framework ...	<i>Wood or other material.</i>
<i>Measurements.</i>			<i>Feet. Tenths.</i>
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank.....			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>			<i>No. of Tons.</i>
Tonnage under tonnage deck.....			
Closed-in spaces above the tonnage deck, if any, viz...			
Space or spaces between decks			
Poop			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
<i>(a) Additional Particulars for Steamers.</i>			<i>Tons.</i>
Deduction for space required for propelling power (say whether $\frac{37}{100}$ ths or $\frac{32}{100}$ ths, or as measured).....			
Length of engine room (if measured)			<i>Feet. Tenths.</i>
Engines			<i>Number of Engines.</i>
Combined power (estimated horse-power)			<i>No. of Horses-power.</i>
Register tonnage, (after making deduction for) Space for propelling power in steamers) (a))			

(a) Omit this part if she has no steam power.

I, the undersigned A. B., Registrar of the Port of _____, hereby certify, that,

(1.) The ship, the description of which is prefixed to this my Certificate, has been duly surveyed, and that the above description is true.

(2.) C. D. of _____ is the master of the said ship.

(3.) The

(3.) The said ship
 was built at
 [naming the country
 and place] on the
 day
 of and
 her Foreign name
 is
 [these words to be
 added if the ship is
 Foreign.]

or { is Foreign-built, and
 the time when and
 the place where she
 was built is not
 known, and her Fo-
 reign name is }

or { was condemned by
 the Court of [naming
 Court] on the
 day of
 at }

(4.) The several persons and bodies corporate whose names are hereunder written [or endorsed] are owners of the above ship, in the proportions set opposite their respective names.

(Signed) _____ Registrar.

Name of the several owners above [or within] mentioned.	Number of Sixty-fourth Shares held by each owner.
[Name.]	Thirty-two.
_____	Sixteen.
_____	Eight.
_____	Eight.

(Signed) _____ Registrar.

Dated at

the day of 18 .

Notice.—A Certificate of Registry granted under The Merchant Shipping Act, 1854, is not a document of title. It does not necessarily contain notice of all changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.

FORM E. (See Section 55.)

BILL OF SALE.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit.</i>	Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head	<i>Kind of.</i>
Stern		Framework...	<i>Wood or other material.</i>
<i>Measurements.</i>		Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank.....			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>		No. of Tons.	
Tonnage under tonnage deck.....			
Closed-in spaces above the tonnage deck, if any, viz.			
Space or spaces between decks			
Poop			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
<i>(a) Additional Particulars for Steamers.</i>		Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ ths or $\frac{32}{100}$ ths, or as measured).....			
		Feet.	Tenths.
Length of engine room (if measured)			
Engines.....		Number of Engines.	
Combined power (estimated horse-power)		No. of Horses-power	
Register tonnage, (after making deduction for)			
Space for propelling power in steamers) (a) }			

I, A. B. of _____ in the County of _____, being owner of shares in the ship above particularly described, in consideration of £ _____ paid to me by C. D. of _____ in the County of _____ hereby transfer to the said C. D. the said shares.

(a) Omit this part if she has no steam power.

Alter as necessary if there be more than one owner.

Further

FORM F. (See Section 56.)

DECLARATION OF OWNERSHIP BY INDIVIDUAL TRANSFERREE.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit.</i>	Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head	<i>Kind of.</i>
Stern		Framework...	<i>Wood or other material.</i>
<i>Measurements.</i>		Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>		<i>No. of Tons.</i>	
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any, viz....			
Space or spaces between decks			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
<i>(a) Additional Particulars for Steamers.</i>		<i>Tons.</i>	
Deduction for space required for propelling power (say whether $\frac{3}{100}$ ths or $\frac{3}{100}$ ths, or as measured).....			
Length of engine room (if measured).....		Feet.	Tenths.
Engines		Number of Engines.	
Combined power (estimated horse-power)		No. of Horses-power.	
Register tonnage, (after making deduction for)			
Space for propelling power in steamers) (a) }			

(a) Omit this part if she has no steam power.

I, the undersigned A. B., of
declare as follows :

in the County of

(1.) I am a natural-born subject of Her Majesty, born at [naming place of birth.]

and

**If the Declaration is a natural-born subject, who has taken the Oath of Allegiance to a Foreign State, or a denizen or naturalized subject, and is resident in a country not within Her Majesty's Dominions, he must declare, in addition, that "he is a member of some British territory, or partner in some house, or actually carrying on business in the United Kingdom, or in some British Possession" naming the house and also the place where it carries on its business.*

and have never taken the Oath of Allegiance to any Foreign State. }

or

{ and have since I took the Oath of Allegiance to a Foreign State [naming State], and on the day of , taken the Oath of Allegiance to Her Majesty, and am resident at* [naming place], being a place within Her Majesty's Dominions.

or

I am

a denizen by Letters of Denization dated the day of

{ naturalized by Act of Parliament of the United Kingdom [cite the year in which the Act was passed, its Chapter and Title.

or

{ naturalized by an Ordinance of the proper Legislative Authority of [naming British Possession], [cite the year in which the Ordinance was passed, its Chapter and Title.

or

and am resident at [naming place], being a place within Her Majesty's Dominions.

And I have

since I so became a denizen, and on the day of since the passing of the said Act or Ordinance taken the Oath of Allegiance to Her Majesty.

(2.) To the best of my knowledge and belief, no person or body of persons, other than such person or bodies of persons as are by The Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

Dated at the day of 18 .

(Signed) _____

Made and subscribed by the above-named A. B. in the presence of me.

(Signed) _____ [Name of Registrar or Justice of the Peace acting in and for

FORM G. (See Section 56.)

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE
AS TRANSFERREE.

No. _____		Date of Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.
Number of Decks.		Build	Carvel or Clincher.
Number of Masts.		Gallery	Description of.
Rigging	Nature of, and whether standing or running Bowsprit.	Head	Kind of.
Stern	Round, square or other description.	Framework...	Wood or other material.
Measurements.			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.			No. of Tons.
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any; viz...			
Space or spaces between decks			
Poop			
Roundhouse			
Other inclosed spaces, if any, naming them			
Total			
(a) Additional Particulars for Steamers.			Tons.
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{3}{100}$ ths, or as measured)			
			Feet. Tenths.
Length of engine room (if measured)			
Engines			Number of Engines.
			No. of Horses-power.
Combined power (estimated horse-power)			
Register tonnage, (after making deduction for) Space for propelling power in steamers) (a) }			

(a) Omit this part if she has no steam power.

I, the undersigned A. B., of _____ in the County of _____ [Secretary]
or [duly appointed public officer], of the _____ Company, declare as
follows:

(1.) The

(1.) The said Company was incorporated by or by virtue of

an Act of Par- liament of the United King- dom [<i>cite the year in which the Act was passed, its Chapter and Title.</i>]	} or {	{ a Charter granted by Her Majesty, and dated the day of	} or {	{ an Act or Ordi- nance of the Legislature of [<i>cite the year in which the Act or Ordi- nance was passed, its Chapter and Title.</i>]	} or {	{ the Act, 7 & 8 Vict., c. 110, from the day of being the date of the cer- tificate of com- plete registra- tion.
--	--------	--	--------	--	--------	---

(2.) The said Company is subject to the laws

of the United Kingdom, } or { or of the British Possession of

and has its principal place of business at

(3.) The said Company is entitled to be registered as transferree of shares in the said ship.

And I make this solemn Declaration conscientiously believing the same to be true.

(Signed) _____

Dated at
the day of 18 .

Made and subscribed by the above-named A. E.
in the presence of me

(Signed) _____ [*Name of Registrar.*]

FORM H. (See Section 58.)

DECLARATION BY OWNER TAKING BY TRANSMISSION.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit.</i>	Build.....	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery.....	<i>Description of.</i>
Rigging.....		Head.....	<i>Kind of.</i>
Stern.....		Framework ..	<i>Wood or other material.</i>
<i>Measurements.</i>			<i>Feet. Tenths.</i>
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank.....			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>			<i>No. of Tons.</i>
Tonnage under tonnage deck.....			
Closed-in spaces above the tonnage deck, if any; viz....			
Space or spaces between decks.....			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
<i>(a) Additional Particulars for Steamers.</i>			<i>Tons.</i>
Deduction for space required for propelling power (say whether $\frac{32}{100}$ ths or $\frac{32}{100}$ ths, or as measured).....			<i>Feet. Tenths.</i>
Length of engine room (if measured).....			
Engines.....			<i>Number of Engines.</i>
Combined power (estimated horse-power).....			<i>No. of Horse-power.</i>
Register tonnage, (after making deduction for) Space for propelling power in steamers) (c)			

I, the undersigned A. B. of _____ in the County of _____ declare as follows:

(1.) I am a natural born British subject, born at [naming place of birth.]

and

(c) Omit this part if she has no steam power.

(b. After accordingly if more than one person makes the declaration.

*If the Declarant is a natural-born subject, who has taken the Oath of Allegiance to a Foreign State, or a denizen or a naturalized subject, and is resident in a country not within Her Majesty's Dominions, he must declare, in addition, that "he is

"a member of
"some British
"factory, partner
"in some house
"actually carrying on business
"in the United Kingdom, or in
"some British
"Possession,"
[naming the house and also the place where it carries on its business.]

and have never taken the Oath of Allegiance to any Foreign State } or {

I am

a denizen by Letters of Denization dated the Day of

and have since I took the Oath of Allegiance to a Foreign State [naming State] and on the day of taken the Oath of Allegiance to Her Majesty, and am resident* at [naming place] being a place within Her Majesty's Dominions.

or

{ naturalized by Act of Parliament of the United Kingdom [cite the year in which the Act was passed, its Chapter and Title]. }

{ naturalized by an Ordinance of the proper legislative authority of [naming British Possession [cite the year in which the Ordinance was passed, its Chapter and Title]. }

and am resident at [naming place], being a place within Her Majesty's Dominions.

And I have

since I so became a denizen, and on the Day of

{ since the passing of the said Act or Ordinance, taken the oath of Allegiance to Her

(2.) I declare that the person appearing by the register book to be the owner of shares in the ship above described† [died at in the County of having first duly made his Will dated the day of whereby he appointed me Executor, and I proved his said Will on the day of in the County of] or [died at in the County of on the day of intestate, and that Letters of Administration of his estate and effects were on the day of duly granted to me by the Court of] .

† Alter according to circumstances.

We declare that C. D., the person appearing on the register book to be the owner of shares in the ship above described, was on the day of † [duly adjudged a bankrupt] or [declared insolvent], and that we were on the day of appointed Assignees of the said C. D., and we are by Law entitled to be registered as owners of the said shares of the said ship in place of the said C. D.

{ I declare that on the day of I intermarried with and am now the husband of C. D., the person appearing on the register book to be the owner of shares in the said ship, and I declare that on such marriage the interest of the said C. D. became by law vested in me, and that I am entitled to be registered as owner of the said shares in the place of the said C. D. }

(3.) To the best of my knowledge and belief, no person or body of persons, other than such persons or bodies of persons as are by The Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at the day of 18 .

Made and subscribed by the above-named A. B., in the presence of me

(Signed) _____ { Name of Registrar or Justice of the Peace acting in and for

FORM I. (See Section 66.)

FORM OF MORTGAGE.

No. _____		Date of Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.
Number of Decks.	Nature of, and whether standing or running Bowsprit.	Build.....	Carvel or Clincher.
Number of Masts.		Gallery.....	Description of.
Rigging.....		Head.....	Kind of.
Stern.....		Framework ..	Wood or other material.
Measurements.			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank.....			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.			No. of Tons.
Tonnage under tonnage deck.....			
Closed-in spaces above the tonnage deck, if any; viz....			
Space or spaces between decks.....			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
(a) Additional Particulars for Steamers.			Tons.
Deduction for space required for propelling power (say whether $\frac{32}{100}$ ths or $\frac{33}{100}$ ths, or as measured).....			
Length of engine room (if measured).....			Feet. Tenths.
Engines.....			Number of Engines.
Combined power (estimated horse-power).....			No. of Horses-power.
Register tonnage, (after making deduction for)			
Space for propelling power in steamers) (a))			

I, the undersigned A. B. of _____ in the County of _____
 consideration of £ _____ this day lent to me by C. D. of _____
 County of _____ do hereby for myself and my heirs covenant with the
 said C. D. firstly, that I, or my heirs, executors, or administrators, will pay to
 the said C. D. the said sum of £ _____ together with interest thereon at the

rate _____
 in con- as may be ne-
 in the cessary so as to
 the secure a general
 balance of ac-
 counts or other-
 wise, as the case
 may require.

rate of £ by the £100 in the year, on the day of next;
 and, secondly, that if the said principal sum is not paid on the said day, I, or
 my heirs, executors, or administrators, will, during such time as the same or
 any part thereof remains unpaid, pay to the said *C. D.* interest on the whole or
 such part thereof as may for the time being remain unpaid at the rate of
 £ by the £100 in the year, by equal half-yearly payments, on the
 day of and day of in every year; and for better
 securing to the said *C. D.* the repayment in manner aforesaid of the said prin-
 cipal sum and interest, I hereby mortgage to the said *C. D.* shares, of
 which I am the owner in the ship above particularly described.

Lastly, I, *A. B.*, for myself and my heirs, covenant with the said *C. D.* and
 his assigns, that I have power to mortgage in manner aforesaid the above-
 mentioned shares, and that the same are free from incumbrances* *save as ap-*
pears by the Registry of the said ship.

* Omit, if no
 Incumbrances,
 the words in
 Italics.

In witness whereof I have hereto subscribed my name and affixed my seal,
 this day of

(L.S.)

(Signed) _____

Executed by the above-named *A. B.*
 in the presence of *X. Y.*

FORM K. (See Section 73.)

TRANSFER OF MORTGAGE TO BE ENDORSED ON ORIGINAL MORTGAGE.

I, the within mentioned *C. D.* in consideration of £ this day
 paid to me by *X. Y.* of in the County of hereby transfer
 to him the benefit of the within written security. In witness whereof I have
 hereunto subscribed my name and affixed my seal, this the day
 of

(L.S.)

(Signed) _____

Executed by the above-named *C. D.*
 in the presence of *E. F.*

FORM L. (See Section 74.)

DECLARATION BY MORTGAGEE TAKING BY TRANSMISSION.

No. _____		Date of Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit.</i>	Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head	<i>Kind of.</i>
Stern		Framework...	<i>Wood or other material.</i>
<i>Measurements.</i>		Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>		No. of Tons.	
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any, viz....			
Space or spaces between decks			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
(a) <i>Additional Particulars for Steamers.</i>		Tons.	
Deduction for space required for propelling power (say whether $\frac{32}{100}$ ths or $\frac{32}{100}$ ths, or as measured).....			
Length of engine room (if measured).....		Feet.	Tenths.
Engines		Number of Engines.	
Combined power (estimated horse-power)		No. of Horses-power.	
Register tonnage, (after making deduction for Space for propelling power in steamers) (a))			

at Unit this part of she has no steam power.

I, the undersigned A. B., of
declare as follows :

in the County of

I declare

* *Alter according to circumstances.*

I declare that the person appearing by the register book to be the mortgagee of shares in the ship above described* [*died at* in the County of *having first duly made his Will dated the day of whereby he appointed me Executor, and I proved his said Will on the day of in the Court of*] or [*died at* in the County of *on the day of intestate, and that Letters of Administration of his estate and effects were on the day of duly granted to me by the Court of*].

or

We declare that *C. D.*, the person appearing on the register book to be the mortgagee of shares in the ship above described* [*was on the day of duly adjudged a bankrupt*] or [*was duly declared insolvent*], and that we were on the day of appointed Assignees of the said *C. D.*, and we are by Law entitled to be registered as mortgagees of the said shares of the said ship in place of the said *C. D.*

or

I declare that on the day of I intermarried with and am now the husband of *C. D.*, the person appearing on the register book to be the mortgagee of shares in the said ship, and I declare that on such marriage the interest of the said *C. D.* became by law vested in me, and that I am entitled to be registered as mortgagee of the said shares in place of the said *C. D.*

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Made and subscribed by the above-named *A. B.*,
in the presence of me

(Signed) _____ Registrar or Justice of the Peace.

FORM M. (See Section 79.)

CERTIFICATE OF MORTGAGE.

No. _____			Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.	
			By steam or sails, and if by steam, whether by paddles or screw.	
Number of Decks.	Nature of, and whether standing or running Bowsprit. Round, square or other description.	Build	Carvel or Clincher.	
Number of Masts.		Gallery	Description of.	
Rigging		Head	Kind of.	
Stern		Framework...	Wood or other material.	
Measurements.			Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost				
Main breadth to outside of plank				
Depth in hold from tonnage deck to ceiling at midships.				
Tonnage.			No. of Tons.	
Tonnage under tonnage deck				
Closed-in spaces above the tonnage deck, if any; viz....				
Space or spaces between decks				
Poop				
Roundhouse				
Other inclosed spaces, if any, naming them				
Total				
(a) Additional Particulars for Steamers.			Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ ths or $\frac{32}{100}$ ths, or as measured)				
Length of engine room (if measured)			Feet.	Tenths.
Engines			Number of Engines.	
Combined power (estimated horse-power)			No. of Horses-power.	
Register tonnage, (after making deduction for)				
Space for propelling power in steamers) (a) }				

(a) Omit this part if she has no steam power.

ACCOUNT OF TITLE OF SUBSCRIBING OWNERS.		
Names of the several subscribing owners.	Number of sixty-fourth shares held by each of the subscribing owners.	Account of Mortgages or Certificates of Mortgage or sale granted in respect of shares of subscribing owners.
(Name and Description of Owner.)		

(1.) We, the above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above account of title, (*but subject to the several mortgages above mentioned,*) hereby appoint *A. B.* of _____ and *C. D.* of _____ and each of them, our attornies and attorney jointly or severally in our names or on our behalf to mortgage our shares in the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

*Alter accordingly if there is only one ap-
pointor or one attorney.*

(2.) We declare that the amount of money to be raised by mortgage under this power shall not exceed £ _____ and that the rate of interest at which the same is raised shall not exceed £ _____ for every £100 by the year.

(3.) We declare that the power of mortgaging hereby given may be exercised at _____

(4.) We declare that the above power shall not be exercised after the expiration of _____ months from the date hereof.

In witness whereof, we have hereunto subscribed our names and affixed our seals, this _____ day of _____

(L.S.)
(L.S.)

E.F. of _____
G.H. of _____
&c.

I, *M. N.*, Registrar of _____ hereby certify, that the above-written particulars relating to the ship _____, and to the title of the several above-mentioned owners, are correct; and I further certify, that the said owners have executed the certificate in manner above appearing.

(Signed) _____ Registrar.

N.B.—Mortgages created under this power must be indorsed on the Certificate in the following form, or as near thereto as circumstances permit:—

The _____ day of _____

The within mentioned shares in the ship _____ were this _____ day mortgaged to *X. Y.* of _____, to secure *£ _____ and interest.

Signed _____, Registrar or Consular Officer.

* If the mortgage is to cover advances, insert "a sum not exceeding £ _____," or "general balance of account," as case may be.

FORM N. (See Section 79.)

CERTIFICATE OF SALE.

No. _____			Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.	
			By steam or sails, and if by steam, whether by paddles or screw.	
Number of Decks.	Nature of, and whether standing or running Bowsprit. Round, square, or other description.	Build	Carvel or Clincher.	
Number of Masts.		Gallery	Description of.	
Rigging		Head	Kind of.	
Stern		Framework ...	Wood or other material.	
Measurements.			Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....				
Main breadth to outside of plank.....				
Depth in hold from tonnage deck to ceiling at midships.				
Tonnage.			No. of Tons.	
Tonnage under tonnage deck.....				
Closed-in spaces above the tonnage deck, if any, viz....				
Space or spaces between decks				
Poop				
Roundhouse.....				
Other inclosed spaces, if any, naming them.....				
Total.....				
(a) Additional Particulars for Steamers.			Tons.	
Deduction for space required for propelling power (say whether $\frac{32}{100}$ ths or $\frac{30}{100}$ ths, or as measured).....				
Length of engine room (if measured)			Feet.	Tenths.
Engines			Number of Engines.	
Combined power (estimated horse-power)			No. of Horses-power.	
Register tonnage, (after making deduction for) Space for propelling power in steamers) (a))				

N. B. All the owners of the ship must be parties to this document.

(a) Omit this part if she has no steam power.

ACCOUNT OF TITLE TO THE ABOVE-MENTIONED SHIP.		
Names of the owners of the ship above-mentioned.	Number of sixty-fourth shares held by each owner.	Account of Mortgages, or Certificates of Mortgage, or Sale granted in respect of ship.
(Name.)		

Alter accordingly if only one appointor or one attorney.

(1.) We, the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above-mentioned Account of Title, (*but subject to the several mortgages above-mentioned,*) hereby appoint *A. B.* of _____, and *C. D.* of _____, and each of them, our attorneys and attorney jointly or severally in our names and on our behalf to sell the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

(2.) We declare that the ship shall not be sold for a less sum than £

(3.) We declare that the ship may be sold at

(4.) We declare that the above power shall not be exercised after the expiration of _____ months from the date hereof.

In witness whereof, we have hereunto subscribed our names and affixed our seals, this _____ day of _____

(L.S.)

E.F. of

(L.S.)

G.H. of

&c.

I, *M. N.*, Registrar of _____, hereby certify, that the above-written particulars relating to the ship _____, and to the title of the several above-mentioned owners, are correct; and I further certify that the said owners have executed this certificate in manner above appearing.

(Signed) _____ Registrar.

FORM O. (See Section 83.)

FORM OF REVOCATION.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddles or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit.</i>	Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head	<i>Kind of.</i>
Stern		Framework...	<i>Wood or other material.</i>
<i>Measurements.</i>		Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>		No. of Tons.	
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any; viz.			
Space or spaces between decks			
Poop			
Roundhouse			
Other inclosed spaces, if any, naming them			
Total			
<i>(a) Additional Particulars for Steamers.</i>		Tons.	
Deduction for space required for propelling power (say whether $\frac{3\frac{1}{2}}{100}$ ths or $\frac{3\frac{1}{2}}{100}$ ths, or as measured)			
Length of engine room (if measured)		Feet.	Tenths.
Engines		Number of Engines.	
Combined power (estimated horse-power)		No. of Horses-power.	
Register tonnage, (after making deduction for } Space for propelling power in steamers) (a) }			

(a) Omit this part if she has no steam power.

(a) *After according to circumstances the words printed in italics.* We (a) owners of the ship above described, hereby revoke the power of mortgaging (or selling) the said ship given by us to (b) by a certificate of mortgage (or sale) dated the day of

In witness whereof, we have hereunto subscribed our names and affixed our seals, this day of

(b) *Insert names of attorneys.*

(L. S.)

E. F. of

(I. S.)

G. H. of

&c.

I, M. N., registrar of , hereby certify, that the said owners have executed this power of revocation in manner above appearing.

(Signed) _____ Registrar.

TABLE P. (See Section 125.)

Fees to be charged for Matters transacted at Shipping Offices.

1. Engagement of Crews.				3. Discharge of Crews.			
		£	s. d.			£	s. d.
In Ships under 60 Tons		0	4 0	In Ships under 60 Tons		0	4 0
60 to 100 "		0	7 0	60 to 100 "		0	7 0
100 to 200 "		0	15 0	100 to 200 "		0	15 0
200 to 300 "		1	0 0	200 to 300 "		1	0 0
300 to 400 "		1	5 0	300 to 400 "		1	5 0
400 to 500 "		1	10 0	400 to 500 "		1	10 0
500 to 600 "		1	15 0	500 to 600 "		1	15 0
600 to 700 "		2	0 0	600 to 700 "		2	0 0
700 to 800 "		2	5 0	700 to 800 "		2	5 0
800 to 900 "		2	10 0	800 to 900 "		2	10 0
900 to 1,000 "		2	15 0	900 to 1,000 "		2	15 0
Above 1,000 "		3	0 0	Above 1,000 "		3	0 0
And so on for ships of larger tonnage, adding for every 100 tons above 1,000, five shillings.				And so on for ships of larger tonnage, adding for every 100 tons above 1,000, five shillings.			
2. Engagement of seamen separately. Two shillings for each.				4. Discharge of seamen separately. Two shillings for each.			

TABLE Q. (See Section 126.)

Sums to be deducted from Wages by way of partial Repayment of Fees in Table P.

1. In respect of Engagements and Discharges of Crews, upon each Engagement and each Discharge.		2. In respect of Engagements and Discharges of Seamen separately, upon each Engagement and each Discharge.	
From wages of any mate, purser, engineer, surgeon, carpenter, or steward	s. d. 1 6	One shilling.	
" all others except apprentices - -	1 0		

TABLE R. (See Section 133.)

Fees to be charged on Examinations.

	£	s.	d.
For a Certificate as Master.....	2	0	0
For a Certificate as Mate.....	1	0	0

TABLE S. (See Section 292.)

REGISTERED TONNAGE.	COLUMN 1. To be carried by Sailing Ships and Steam Ships.										COLUMN 2. To be carried by Sailing Ships and by Steam Ships, when they do not carry the boats in col. 3.										COLUMN 3. To be carried by Steam Ships which do not carry the boat in column 2.										TOTAL NUMBER OF BOATS.
	Boats.					Boats.					Launches.					Boats.					Life Boats.										
Sailing Ships.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Sailing Ships.	Steam Ships.					
Tons.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.	Ft.							
1,000 and upwards	1	18.5	6.2	3.2	2	24.5	6.2	6	1	27.8	6.3	8	1	27.8	6.3	8	2	22.5	6.2	6	2	28.8	6.3	6	7	4 or 5	as the Case may be.				
800 to 1000	1	18.5	6.2	3.2	2	26.6	6.2	8	1	26.8	6.3	8	2	22.5	6.2	6	2	22.5	6.2	6	2	28.8	6.3	6	4 or 5	as the Case may be.					
500 and upwards.	1	18.5	6.2	3.2	2	24.5	6.2	6	1	26.8	6.3	8	2	22.5	6.2	6	2	22.5	6.2	6	2	28.8	6.3	6	4 or 5	as the Case may be.					
600 to 800 360 to 500	1	16.5	6.2	3.2	3	24.5	6.2	6	1	25.7	6.3	6	2	22.5	6.2	6	2	22.5	6.2	6	2	28.8	6.3	6	4 or 5	as the Case may be.					
100 to 600 240 to 360	1	16.5	6.2	3.1	2	22.5	6.2	5	1	22.6	6.3	3	2	22.5	6.2	6	2	22.5	6.2	6	2	28.8	6.3	6	4 or 5	as the Case may be.					
200 to 400 120 to 240	1	14.5	6.2	2	2	22.5	6.2	5	1	20.5	6.3	3	2	22.5	6.2	6	2	22.5	6.2	6	2	28.8	6.3	6	4 or 5	as the Case may be.					
100 to 200 60 to 120	1	14.5	6.2	2	2	22.5	6.2	5	1	16.5	6.2	3	2	18.5	6.2	4	2	18.5	6.2	4	2	28.8	6.3	6	4 or 5	as the Case may be.					
Under 100	Under 60	1	14.5	0.2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	1	as the Case may be.				

Note.—In Sailing Ships carrying the number of boats above specified, and Steam Ships carrying the larger of the two numbers above specified, the boats are to be considered sufficient, if their aggregate cubic contents are equal to aggregate cubic contents of the boat specified.

In Steam Ships carrying the smaller of the two numbers above specified, one of the boats must be a Launch of the capacity specified in Col. 2.

In Sailing Ships of 200 tons burden and under, not carrying passengers a Dingy may be substituted for the boat in Col. 1.

In Sailing Ships of 150 tons burden and under, not carrying passengers, a substantial boat of capacity sufficient to carry the crew may be substituted for those above specified.

In all Steam Ships, two paddlebox boats may be substituted for any two of the boats in Col. 3.

(TABLE T is a table of the fees to be charged for the survey of passenger steamers in the United Kingdom under Section 314.)

(TABLE U is a table of the rates of pilotage to be demanded and received by qualified pilots in the United Kingdom under Section 333.)

(TABLE V is a table of the fees and remuneration of receivers of wreck in the United Kingdom under Section 455.)

(TABLE W gives the form of the salvage bond required by Section 486.)

18 & 19 VICT., c. 91---1855.

An Act to facilitate the Erection and Maintenance of Colonial Lighthouses, and otherwise to amend the Merchant Shipping Act, 1854.

WHEREAS it is expedient to make provision for facilitating the erection and maintenance of lighthouses in the *British Possessions* abroad, and otherwise to amend the Merchant Shipping Act, 1854: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Merchant Shipping Act Amendment Act, 1855," and shall be taken to be part of the Merchant Shipping Act, 1854, and shall be construed accordingly.

Short Title of Act.

17 & 18 Vict., c. 104.

(Secs. 2-8 inclusive relate to the erection and maintenance of lighthouses on or near the coasts of British Possessions, but do not apply to inland waters. See Dom. Act, 31 Vict., c. 59.)

9. Any person who, in any declaration made in the presence of or produced to any registrar of shipping, in pursuance of the second part of the Merchant Shipping Act, 1854, or in any documents or other evidence produced to such registrar, wilfully makes, or assists in making or procures to be made, any false statement concerning the title to or the ownership of or the interests existing in any ship, or any share or shares in any ship, or who utters, produces, or makes use of any declaration or document containing any such false statement, knowing the same to be false, shall be guilty of a misdemeanor.

Registry of Ships.

PART II. of Merchant Shipping Act, 1854.

Penalty on false Declarations under Part II. of Merchant Shipping Act.

17 & 18 Vict., c. 104, s. 103.

10. Shares in ships registered under the said Merchant Shipping Act, 1854, shall be deemed to be included in the word "stock," as defined by the Trustee Act, 1850, and the provisions of such last-mentioned Act shall be applicable to such shares accordingly.

Shares in Shipping within the Trustee Act, 1850.

13 & 14 Vict., c. 60.

11. In any case in which any bill of sale, mortgage, or other instrument for the disposal or transfer of any ship or any share or shares therein or of any interest therein is made in any form or contains any particulars other than the form and

Forms of Instruments.

17 & 18 Vict., c. 104, s. 96.

and particulars prescribed and approved for the purpose by or in pursuance of the Merchant Shipping Act, 1854, no registrar shall be required to record the same without the express direction of the commissioners of Her Majesty's customs.

Delivery of
Certificate
upon Transfer
of Registry.

17 & 18 Vict.,
c. 104, s. 90.

12. Upon the transfer of the registry of a ship from one port to another, the certificate of registry required by the ninetieth section of the Merchant Shipping Act, 1854, to be delivered up for that purpose, may be delivered up to the registrar of either of such ports.

Exemption of
certain ships
from having
name painted
on stern.

17 & 18 Vict.,
c. 104, s. 34.

13. The commissioners of customs may, with the consent of the board of trade, exempt any pleasure yacht from the provision contained in the thirty-fourth section of the Merchant Shipping Act, 1854, which requires the name of every ship and the port to which she belongs to be painted on her stern.

Ships mea-
sured under
Rule II. may
be measured
under Rule I.

17 and 18 Vict.,
c. 104, ss. 21
and 22.

14. The owner of any ship which is measured under rule II. contained in the twenty-second section of the Merchant Shipping Act, 1854, may at any subsequent period apply to the commissioners of customs to have the said ship remeasured under rule I. contained in the twenty-first section of the same Act, and the said commissioners may thereupon, and upon payment of such fee not exceeding seven shillings and sixpence for each transverse section as they may authorize, direct the said ship to be remeasured accordingly, and the number denoting the register tonnage shall be altered accordingly.

(See *Imp. Act, 35 & 36 Vict., c. 73, s. 3, post.*)

General Regis-
ter Books in
London.

17 & 18 Vict.,
c. 104, s. 107.

15. The copy or transcript of the register of any *British* ship which is kept by the chief registrar of shipping at the custom house in *London*, or by the registrar general of seamen, under the direction of Her Majesty's commissioners of customs or of the board of trade, shall have the same effect to all intents and purposes as the original register of which the same is a copy or transcript.

*Masters and
Seamen.*

PART III of
Merchant
Shipping Act,
1854.

Extension of
Provisions
concerning the
relief of desti-
tute seamen.

17 & 18 Vict.,
c. 104, ss. 211,
212 and 213.

16. The board of trade may issue instructions concerning the relief to be administered to distressed seamen and apprentices, in pursuance of the two hundred and eleventh and two hundred and twelfth sections of the Merchant Shipping Act, 1854, and may by such instructions determine in what cases and under what circumstances and conditions such relief is to be administered; and all powers of recovering expenses incurred with respect to distressed seamen and apprentices, which by the two hundred and thirteenth section of the said Act are given to the board of trade, shall extend to all expenses incurred by any foreign government for the purposes

purposes aforesaid, and repaid to such government by Her Majesty's Government, and shall likewise extend to any expenses incurred by the conveying home such seamen or apprentices in foreign as well as *British* ships; and all provisions concerning the relief of distressed seamen and apprentices, being subjects of Her Majesty, which are contained in the said sections of the said Act, and in this section shall extend to such seamen and apprentices, not being subjects of Her Majesty, as are reduced to distress in foreign parts by reason of their having been shipwrecked, discharged, or left behind from any *British* ship; subject nevertheless to such modifications and directions concerning the cases in which relief is to be given to such foreigners, and the country to which they are to be sent, as the board of trade may, under the circumstances, think fit to make and issue.

(See *Imp. Act, 25 & 26 Vict, c. 63, s. 22, post.*)

17. The enactment of the Merchant Shipping Act, 1854, relating to Savings Banks, shall apply to all seamen, and to their wives and families, whether such seamen belong to the royal navy or to the merchant service, or to any other sea service.

Enactment concerning Savings Banks extended to seamen in the Navy.
17 & 8 Vict., c. 104, s. 180.

18. Any naval court summoned, under the provisions of the Merchant Shipping Act, 1854, to hear any complaint touching the conduct of the master or any of the crew of any ship, shall, in addition to the powers given to it by the said Act, have power to try the said master or any of the said crew for any offences against the Merchant Shipping Act, 1854, in respect of which two justices would, if the case were tried in the United Kingdom, have power to convict summarily, and by order duly made, to inflict the same punishments for such offences which two justices might in the case aforesaid inflict upon summary conviction; provided, that in cases where an offender is sentenced to imprisonment, the sentence shall be confirmed in writing by the senior naval or consular officer present at the place where the court is held, and the place of imprisonment, whether on land or on board ship, shall be approved by him as a proper place for the purpose, and copies of all sentences made by any naval court summoned to hear any such complaint as aforesaid, shall be sent to the commander-in-chief or senior naval officer of the station.

Additional Powers of Naval Courts.
17 & 18 Vict., c. 104, ss. 260 to 266.

(Secs. 19 & 20 amended the provisions of Part VIII. of the principal Act relating to wreck and salvage on or near the coasts of the United Kingdom. See *Dom. Act relating to wreck and salvage, 36 Vict., c. 55.*)

21. If any person, being a *British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas or in any foreign port or harbour, or if any

Legal Procedure. —
PART X. of Merchant Shipping Act, 1854.

Jurisdiction in case of offences on board ship.

12 & 13 Vict.,
c. 96

any person, not being a *British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas, is found within the jurisdiction of any court of justice in Her Majesty's Dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits; provided, that nothing contained in this section shall be construed to alter or interfere with the Act of the thirteenth year of Her present Majesty, chapter ninety-six.

(*Sec. 22 makes provision for the relief of destitute Lascars and other natives of the East Indies.*)

(*Sec. 23 provides that contracts may be made with natives in India, under certain conditions, binding them to go to the United Kingdom, and then to serve in other ships back to India or elsewhere.*)

Saving of former enactments.

4 Geo. 4, c. 80,
ss. 25 to 34.
17 & 18 Vict.,
c. 120, s. 16.

21. Nothing herein contained shall be deemed to repeal or affect any provisions contained in the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, or thirty-fourth sections of the Act of the fourth year of King *George* the Fourth, chapter eighty, or in the sixteenth section of the Act of the eighteenth year of Her present Majesty, chapter one hundred and twenty.

25 & 26 VICT. c. 63—1862.

An Act to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855, and "The Customs Consolidation Act, 1853."

17 & 18 Vict.,
c. 104.
18 & 19 Vict.,
c. 91.
16 & 17 Vict.,
c. 107.

WHEREAS it is expedient further to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855," and "The Customs Consolidation Act, 1853:" Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title.

1. This Act may be cited as "The Merchant Shipping Act Amendment Act, 1862," and shall be construed with and as part of "The Merchant Shipping Act, 1854," hereinafter termed the Principal Act.

2. The enactments described in table (A) in the schedule to this Act shall be repealed as therein mentioned, except as to any liabilities incurred before such repeal.

Enactments in Table (A.) repealed.

Registry and Measurement of Tonnage (Part II. of Merchant Shipping Act, 1854.)

3. It is hereby declared that the expression "beneficial interest," whenever used in the second part of the Principal Act, includes interests arising under contract and other equitable interests; and the intention of the said Act is, that, without prejudice to the provisions contained in the said Act for preventing notice of trusts from being entered in the register book or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by the said Act on registered owners and mortgagees, and without prejudice to the provisions contained in the said Act relating to the exclusion of unqualified persons from the ownership of *British* ships, equities may be enforced against owners and mortgagees of ships in respect of their interest therein, in the same manner as equities may be enforced against them in respect of any other personal property.

Equities not excluded by Merchant Shipping Act.

4. Any body corporate or persons having power to levy tonnage rates on ships may, if they think fit, with the consent of the board of trade, levy such tonnage rates upon the registered tonnage of the ships as determined by the rules for the measurement of tonnage for the time being in force under the Principal Act, notwithstanding that the local Act or Acts under which such rates are levied provides for levying the same upon some different system of tonnage measurement.

Tonnage rates under Local Acts may be levied on the registered tonnage.

Certificates for Engineers (Part III. of Merchant Shipping Act, 1854.)

(See *Dom. Act*, 31 Vict., c. 65, s. s. 25-29.)

5. On and after the first day of *June*, one thousand eight hundred and sixty-three, every steam ship which is required by the Principal Act to have a master possessing a certificate from the board of trade shall also have an engineer or engineers possessing a certificate or certificates from the board of trade as follows; that is to say,

Steam ships to carry Certificated Engineers.

- (1.) Engineers' certificates shall be of two grades, viz., "first-class engineers' certificates," and "second-class engineers' certificates":
- (2.) Every foreign-going steam ship of one hundred nominal horse power or upwards shall have as its first and second engineers two certificated engineers, the first possessing

a "first-class engineer's certificate," and the second possessing a "second-class engineer's certificate," or a certificate of the higher grade :

- (3.) Every foreign-going steam ship of less than one hundred nominal horse power shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate," or a certificate of the higher grade :
- (4.) Every sea-going home trade passenger steam ship shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate," or a certificate of the higher grade :
- (5.) Every person who, having been engaged to serve in any of the above capacities in any such steam ship as aforesaid, goes to sea in that capacity without being at the time entitled to and possessed of such certificate as is required by this section, and every person who employs any person in any of the above capacities in such ship without ascertaining that he is at the time entitled to and possessed of such certificate as is required by this section, shall for each such offence incur a penalty not exceeding fifty pounds.

Examinations
for Engineers'
Certificates of
Competency.

6. The board of trade shall from time to time cause examinations to be held of persons who may be desirous of obtaining certificates of competency as engineers : For the purpose of such examinations the board of trade shall from time to time appoint and remove examiners, and award the remuneration to be paid to them ; lay down rules as to the qualification of applicants, and as to the times and places of examination ; and generally do all such acts as it thinks expedient in order to carry into effect the examination of such engineers as aforesaid.

Fees to be paid
by applicants
for examination.

7. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked (B.) in the schedule hereto, as the board of trade directs ; and such fees shall be paid to such persons as the said board appoints for that purpose, and shall be carried to the account of the mercantile marine fund.

Certificates of
Competency to
be granted to
those who
pass.

8. The board of trade shall deliver to every applicant who is duly reported to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a certificate of competency, as first-class engineer or as second-class engineer, as the case may be.

Engineers'
Certificates of
Service to be
delivered on
proof of cer-
tain service.

9. Certificates of service for engineers, differing in form from certificates of competency, shall be granted as follows ; that is to say,

(1.)

- (1.) Every person who before the first day of *April*, one thousand eight hundred and sixty-two, has served as first engineer in any foreign-going steam ship of one hundred nominal horse power or upwards, or who has attained or attains the rank of engineer in the service of Her Majesty or of the *East India* Company, shall be entitled to a "first-class engineer's" certificate of service :
- (2.) Every person who before the first day of *April*, one thousand eight hundred and sixty-two, has served as second engineer in any foreign-going steam ship of one hundred nominal horse power or upwards, or as first or only engineer in any other steam ship, or who has attained or attains the rank of first-class assistant engineer in the service of Her Majesty, shall be entitled to a "second-class engineer's certificate" of service :

Each of such certificates of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered ; and the board of trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

10. The provisions of the Principal Act, with respect to the certificates of competency or service of masters and mates, contained in the 138th, 139th, 140th, 161st, and 162d sections of the said Act, shall apply to certificates of competency or service granted under this Act in the same manner as if certificates of competency and service to be granted to engineers under this Act were specially mentioned and included in the said sections.

Certain Provisions of Merchant Shipping Act to apply to Engineers' Certificates.

11. The power by the 241st section of the Principal Act given to the board of trade or to any local marine board of instituting investigations into the conduct of any master or mate whom it has reason to believe to be from incompetency or misconduct unfit to discharge his duties, shall extend to any certificated engineer whom the board of trade or any local marine board has reason to believe to be from incompetency or misconduct unfit to discharge his duties, in the same manner as if in the said section the words "certificated engineer" had been inserted after "master" wherever "master" occurs in such section.

Power of Board of Trade and Local Marine Board to investigate conduct of Certificated Engineers.

12. The declaration required to be given by the engineer surveyor under section 309 of the Principal Act shall, in the case of a ship by this Act required to have a certificated engineer, contain, in addition to the statements in the said

section

Declaration of Engineer Surveyor to contain statement concerning Engineers' Certificate.

section mentioned, a statement that the certificate or certificates of the engineer or engineers of such ship is or are such and in such condition as is required by this Act.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

Third Part of Act to apply to fishing boats, lighthouse vessels, and pleasure yachts, with certain exceptions.

13. The following vessels; that is to say,

- (1.) Registered sea-going ships exclusively employed in fishing on the coasts of the United Kingdom;
- (2.) Sea-going ships belonging to any of the three general lighthouse boards;
- (3.) Sea-going ships being pleasure yachts;

Shall be subject to the whole of the third part of the principal Act: except,—Sections 136, 143, 145, 147, 149, 150, 151, 152, 153, 154, 155, 157, 158, 161, 162, 166, 170, 171, 231, 256, 279, 280, 281, 282, 283, 284, 285, 286 and 287.

Local Marine Board may determine number of quorum.

14. Whereas doubts have been entertained whether local marine boards have the power of determining a quorum: It is hereby declared, that the power by the 119th section of the Principal Act given to every local marine board of regulating the mode in which its meetings are to be held and its business conducted includes the power of determining a quorum; nevertheless, after the passing of this Act such quorum shall never consist of less than three members.

Titles of Shipping Masters.

15. The offices termed shipping offices in the Principal Act shall be termed mercantile marine offices, and the officers termed shipping masters and deputy shipping masters in the Principal Act shall be termed superintendents and deputy superintendents of such offices; but nothing in this section contained shall invalidate or affect any Act which may be done at any such office under the title of a shipping office, or any act which may be done by, with, or to any of the said officers under the title of shipping master or deputy shipping master.

Punishment for embezzlement in shipping offices.

16. Any person appointed to any office or service by or under any local marine board shall be deemed to be a clerk or servant within the meaning of the sixty-eighth section of the Act of the twenty-fifth year of the reign of Her present Majesty, chapter ninety-six:

If any such person fraudulently applies or disposes of any chattel, money, or valuable security received by him whilst employed in such office or service for or on account of any such

such local marine board or for or on account of any other public board or department, to his own use or any use or purpose other than that for which the same was paid, entrusted to, or received by him, or fraudulently withholds, retains, or keeps back the same or any part thereof contrary to any lawful directions or instructions which he is required to obey in relation to such office or service, he shall be deemed guilty of embezzlement within the meaning of the said section :

Any such person shall, on conviction of such offence as aforesaid, be liable to the same pains and penalties as are thereby imposed upon any clerk or servant for embezzlement :

In any indictment against such person for such offence it shall be sufficient to charge any such chattel, money, or valuable security as the property either of the board by which he was appointed, or of the board or department for or on account of which he may have received the same ; and no greater particularity in the description of the property shall be required in such indictment in order to sustain the same, or in proof of the offence alleged, than is required in respect of an indictment or the subject matter thereof by the seventy-first section of the said last-mentioned Act.

17. Whereas it is expedient to make provision in certain cases for holding examinations of applicants for certificates of competency at places where there are no local marine boards : Be it enacted, that the board of trade, if satisfied that serious inconvenience exists at any port in consequence of the distance which applicants for certificates have to travel in order to be examined, may, with the concurrence of any local marine board, send the examiner or examiners of that local marine board to the port where such inconvenience exists ; and thereupon the said examiner or examiners shall proceed to such port, and shall there examine the applicants in the presence of such person or persons (if any) as the board of trade may appoint for the purpose ; and such examinations shall be conducted in the same manner and shall have the same effect as other examinations under the said Act.

Examinations
of masters and
mates at ports
where there
are no Local
Marine
Boards.

18. It is hereby declared that the 182d section of the Principal Act does not apply to the case of any stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship or ships.

Construction
of Sect. 182 of
Principal Act.
Stipulations
concerning
salvage.

19. The payment of seamen's wages required by the 209th section of the Principal Act shall, whenever it is practicable so to do, be made in money and not by bill ; and in cases

Payment of
wages to sea-
men abroad
under Section
209 of Principal
Act.

where

where payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the amount for which the same is drawn to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same; and any bill purporting to be drawn in pursuance of the said section, and to be indorsed as therein required, if produced out of the custody of the board of trade or of the registrar general of seamen, or of any superintendent of any mercantile marine office, shall be received in evidence; and any indorsement on any such bill purporting to be made in pursuance of the said section, and to be signed by one of the functionaries therein mentioned, shall also be received in evidence, and shall be deemed to be *prima facie* evidence of the facts stated in such indorsement.

Wages and effects of deceased seamen.

20. The 197th section of the principal Act shall extend to seamen or apprentices who within the six months immediately preceding their death have belonged to a *British* ship; and such section shall be construed as if there were inserted in the first line thereof after the words "such seaman or apprentice as last aforesaid" the words "or if any seaman or apprentice who has within the six months immediately preceding his death belonged to a *British* ship."

Recovery of wages, &c., of seamen lost with their ship.

21. The wages of seamen or apprentices who are lost with the ship to which they belong shall be dealt with as follows; (that is to say):

- (1.) The board of trade may recover the same from the owner of the ship in the same manner in which seamen's wages are recoverable:
- (2.) In any proceedings for the recovery of such wages, if it is shown by some official return produced out of the custody of the registrar general of seamen or by other evidence that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, and if it is not shown that she has been heard of within twelve months after such departure, she shall be deemed to have been lost with all hands on board, either immediately after the time she was last heard of or at such later time as the court hearing the case may think probable:
- (3.) The production out of the custody of the registrar general of seamen or of the board of trade of any duplicate agreement or list of the crew made out at the time of the last departure of the ship from the United Kingdom, or of a certificate purporting to be a certificate from a consular or other public officer at any port abroad, stating that

that certain seamen or apprentices were shipped in the ship from the said port, shall, in the absence of proof to the contrary, be sufficient proof that the seamen or apprentices therein named were on board at the time of the loss :

- (4.) The board of trade shall deal with such wages in the manner in which they deal with the wages of other deceased seamen and apprentices under the Principal Act.

22. Whereas under the 211th and 212th sections of the Principal Act, and the 16th section of "The Merchant Shipping Act Amendment Act, 1855," provision is made for relieving and sending home seamen found in distress abroad :

Relief of distressed seamen to be regulated by Board of Trade.

And whereas doubts are entertained whether power exists under the said sections of making regulations and imposing conditions which are necessary for the prevention of desertion and misconduct and the undue expenditure of public money :

Be it enacted, and it is hereby declared, That the claims of seamen to be relieved or sent home in pursuance of the said sections or any of them shall be subject to such regulations and dependent on such conditions as the board of trade may from time to time make or impose ; and no seaman shall have any right to demand to be relieved or sent home except in the cases and to the extent provided for by such regulations and conditions.

23. The following rules shall be observed with respect to the cancellation and suspension of certificates, that is to say :

Power of cancelling certificate to rest with the court which hears the case.

- (1.) The power of cancelling or suspending the certificate of a master or mate by the 242d section of the Principal Act conferred on the board of trade shall (except in the case provided for by the fourth paragraph of the said section) vest in and be exercised by the local marine board, magistrates, naval court, admiralty court, or other court or tribunal by which the case is investigated, or tried, and shall not in future vest in or be exercised by the board of trade :
- (2.) Such power shall extend to cancelling or suspending the certificates of engineers in the same manner as if "certificated engineer" or "certificated engineers" were inserted throughout such section after "master" or "masters" :
- (3.) Every such board, court, or tribunal shall, at the conclusion of the case, or as soon afterwards as possible, state

state in open court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, to the board of trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the board of trade with their report :

- (4.) It shall be lawful for the board of trade, if they think the justice of the case requires it, to reissue and return any certificate which has been cancelled or suspended, or shorten the time for which it is suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended :
- (5.) The 434th and 437th sections of the Principal Act shall be read as if for the word "nautical" were substituted the words "nautical or engineering," and as if for the word "person" and "assessor" respectively were substituted the words "person or persons" and "assessor or assessors" respectively :
- (6.) No certificate shall be cancelled or suspended under this section unless a copy of the report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the certificate before the commencement of the investigation, nor, in the case of investigations conducted by justices or a stipendiary magistrate, unless one assessor at least expresses his concurrence in the report.

Certificate to
be delivered
up.

24. Every master or mate or engineer whose certificate is or is to be suspended or cancelled in pursuance of this Act shall, upon demand of the board, court, or tribunal by which the case is investigated or tried, deliver his certificate to them, or, if it is not demanded by such board, court, or tribunal, shall, upon demand, deliver it to the board of trade, or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds.

Safety (Part IV. of Merchant Shipping Act, 1854.)

(Secs. 25-34 prescribe rules to be observed for the prevention of collisions (as to carrying lights, fog-signals, &c.,) and provided what should be the consequence of a breach of such rules, but this subject as to navigable waters within the Dominion is governed by Dom. Act, 31 Vict., c. 58.)

Surveys of
steamers.

34. Notwithstanding anything in the 311th section of the Principal Act contained, it shall not be necessary for the surveys of passenger steamers to be made in the months of April and

and *October* ; but no declaration shall be given by any surveyor under the fourth part of the said Act for a period exceeding six months, and no certificate issued by the board of trade shall remain in force more than six months from the date thereof.

(See Dom. Acts relative to the inspection of steamboats.)

35. The following offenders, that is to say :

- (1.) Any person who, being drunken or disorderly, has been on that account refused admission into any duly surveyed passenger steamer by the owner or any person in his employ, and who, after having had the amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter such steamer ; Penalties on drunken or disorderly passengers.
- (2.) Any person who, being drunken or disorderly on board any such steamer, is requested by the owner or any person in his employ to leave the same at any place in the United Kingdom at which he can conveniently so do, and who, having had the amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request ;
- (3.) Any person on board any such steamer who, after warning by the master or any other officer of the steamer, molests or continues to molest any passenger ; On persons molesting passengers.
- (4.) Any person who, after having been refused admission into any such steamer by the owner or any person in his employ on account of such steamer being full, and who, after having had the full amount of his fare (if he has paid the same), returned or tendered to him, nevertheless persists in attempting to enter the same ; Penalties on persons forcing way on board the ship when full.
- (5.) Any person, having got on board any such steamer, who, upon being requested on the like account by the owner or any person in his employ to leave such steamer before the same has quitted the place at which such person got on board, and who, upon having the full amount of his fare (if he has paid the same), returned or tendered to him, refuses to comply with such request ; And on persons refusing to quit the ship when full.
- (6.) Any person who travels or attempts to travel in any such steamer without having previously paid his fare, and with intent to avoid payment thereof : Penalties for avoiding payment of fares.
- (7.) Any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamer

steamer beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof;

- (8.) Any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamer; and
- (9.) Any person on board any such steamer who does not when required by the master or other officer of such steamer either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for such steamer;

Shall for every such offence be liable to a penalty not exceeding forty shillings; but such liability shall not prejudice the recovery of any fare payable by him.

(As to offences of the nature of those mentioned in this and the following section on steamers registered in Canada see Dom. Act, 36 Vict., c. 57.)

Penalty for
injuring
steamer or
molesting
crew.

36. Any person on board any such steamer who wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of such steamer, or to obstruct, impede, or molest the crew or any of them in the navigation or management of such steamer, or otherwise in the execution of their duty upon or about such steamer, shall for every such offence be liable to a penalty not exceeding twenty pounds.

Manner of ap-
prehending
offenders.

37. It shall be lawful for the master or other officer of any duly surveyed passenger steamer, and for all persons called by him to his assistance, to detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name and address are unknown to such officer, and to convey such offender with all convenient despatch before some justice without any warrant or other authority than this Act; and such justice shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

(Sec. 38 extended the 329th Section of the Principal Act to foreign ships when within the limits of the United Kingdom, but is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 35.)

Pilotage (Part V. of Merchant Shipping Act, 1854.)

(Secs. 39-42 inclusive amend and extend the provisions of Part V. of the Principal Act, but do not apply to this Province. See note to this part of the Principal Act, ante.)

Lighthouses

Lighthouses (Part VI. of Merchant Shipping Act, 1854.)

(Secs. 43-47 amend and extend the provisions of Part VI. of the Principal Act, but do not apply to this Province. See note to Part VI. of the Principal Act, ante.)

Wreck and Salvage (Part VIII. of Merchant Shipping Act, 1854.)

(Secs. 49-53 inclusive amend the provisions of Part VIII. of the Principal Act relating to procedure in salvage cases and to unclaimed wreck in the United Kingdom, and apply only to the United Kingdom and the adjacent Seas and Islands.)

Liability of Shipowners (Part IX. of Merchant Shipping Act, 1854.)

54. The owners of any ship, whether *British* or foreign, shall not, in cases where all or any of the following events occur without their actual fault or privity, that is to say : Shipowners
liability
limited.

- (1.) Where any loss of life or personal injury is caused to any person being carried in such ship ;
- (2.) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship ;
- (3.) Where any loss of life or personal injury is by reason of the improper navigation of such ship as aforesaid caused to any person carried in any other ship or boat ;
- (4.) Where any loss or damage is by reason of the improper navigation of such ship as aforesaid caused to any other ship or boat, or to any goods, merchandise, or other things whatsoever on board any other ship or boat ;

be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise, or other things, to an aggregate amount exceeding fifteen pounds for each ton of their ship's tonnage ; nor in respect of loss or damage to ships, goods, merchandise, or other things, whether there be in addition loss of life or personal injury or not, to an aggregate amount exceeding eight pounds for each ton of the ship's tonnage ; such tonnage to be the registered tonnage in the case of sailing ships, and in the case of steam ships the gross tonnage without deduction on account of engine room :

In the case of any foreign ship which has been or can be measured according to *British* law, the tonnage as ascertained by such measurement shall, for the purposes of this section, be deemed to be the tonnage of such ship :

In

In the case of any foreign ship which has not been and cannot be measured under *British* law, the surveyor general of tonnage in the United Kingdom, and the chief measuring officer in any *British* Possession abroad, shall, on receiving from or by direction of the court hearing the case such evidence concerning the dimensions of the ship as may be found practicable to furnish, give a certificate under his hand, stating what would in his opinion have been the tonnage of such ship if she had been duly measured according to *British* law, and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship.

Limitation
of invalidity
of insurances.

55. Insurances effected against any or all of the events enumerated in the section last preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk.

Proof of pas-
sengers on
board lost
ship.

56. In any proceeding under the 506th section of the Principal Act or any Act amending the same against the owner of any ship or share therein in respect of loss of life, the master's list or the duplicate list of passengers delivered to the proper officer of customs under the 16th section of "The Passengers' Act, 1855," shall, in the absence of proof to the contrary, be sufficient proof that the persons in respect of whose death any such prosecution or proceeding is instituted were passengers on board such ships at the time of their deaths.

Arrangements concerning Lights, Sailing Rules, Salvage, and Measurement of Tonnage in the Case of Foreign Ships.

Foreign ships
in British
jurisdiction to
be subject to
regulations in
Table (C) in
Schedule.

57. Whenever foreign ships are within *British* jurisdiction, the regulations for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing collision as are for the time being in force under this Act, and all provisions of this Act relating to such regulations, or otherwise relating to collisions, shall apply to such foreign ships; and in any cases arising in any *British* court of justice concerning matters happening within *British* jurisdiction, foreign ships shall, so far as regards such regulations and provisions, be treated as if they were *British* ships.

(The rules for the prevention of collisions prescribed by Dom. Act, 31 Vict., c. 58, are extended by Section 10 of that Act to foreign ships when in Canadian waters.)

Regulations,
when adopted
by a foreign
country, may
be applied to
its ships on the
high seas.

58. Whenever it is made to appear to Her Majesty that the Government of any foreign country is willing that the regulations, for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing

preventing collision as are for the time being in force under this Act, or any of the said regulations, or any provisions of this Act relating to collisions, should apply to the ships of such country when beyond the limits of *British* jurisdiction, Her Majesty may, by Order in Council, direct that such regulations, and all provisions of this Act which relate to such regulations, and all such other provisions as aforesaid, shall apply to the ships of the said foreign country, whether within *British* jurisdiction or not.

59. Whenever it is made to appear to Her Majesty that the government of any foreign country is willing that salvage shall be awarded by *British* courts for services rendered in saving life from any ship belonging to such country when such ship is beyond the limits of *British* jurisdiction, Her Majesty may, by Order in Council, direct that the provisions of the Principal Act and of this Act, with respect to salvage for services rendered in saving life from *British* ships, shall in all *British* courts be held to apply to services rendered in saving life from the ships of such foreign country, whether such services are rendered within *British* jurisdiction or not.

Provisions concerning salvage of life may, with the consent of any foreign country, be applied to its ships on the high seas.

60. Whenever it is made to appear to Her Majesty that the rules concerning the measurement of tonnage of merchant ships for the time being in force under the Principal Act have been adopted by the Government of any foreign country, and are in force in that country, it shall be lawful for Her Majesty by Order in Council to direct that the ships of such foreign country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers; and thereupon it shall no longer be necessary for such ships to be re-measured in any port or place in Her Majesty's Dominions, but such ships shall be deemed to be of the tonnage denoted in their certificates of registry or other papers, in the same manner, to the same extent, and for the same purposes in, to and for which the tonnage denoted in the certificates of registry of *British* ships is deemed to be the tonnage of such ships.

Ships of foreign countries adopting the rule for measurement of tonnage need not be re-measured in this country.

61 Whenever an Order in Council has been issued under this Act, applying any provision of this Act or any regulation made by or in pursuance of this Act to the ship of any foreign country, such ships shall in all cases arising in any *British* court be deemed to be subject to such provision or regulation, and shall for the purpose of such provision or regulation be treated as if they were *British* ships.

Effect of Order in Council.

62. In issuing any Order in Council under this Act Her Majesty may limit the time during which it is to remain in operation, and may make the same subject to such conditions and qualifications, if any, as may be deemed expedient, and thereupon the operation of the said Order shall be limited and modified accordingly.

Orders in Council may be limited as to time, and qualified.

Orders in Council may be revoked and altered.

63. Her Majesty may by Order in Council from time to time revoke or alter any Order previously made under this Act.

Orders in Council to be published in *London Gazette*.

64. Every Order in Council to be made under this Act shall be published in the *London Gazette* as soon as may be after the making thereof; and the production of a copy of the *London Gazette* containing such Order shall be received in evidence, and shall be proof that the Order therein published has been duly made and issued; and it shall not be necessary to plead such Order specially.

Legal Procedure.

20 & 21 Vict., c. 43, s. 3, not to apply to proceedings under Board of Trade or this Act, &c.

65. Nothing in the third section of the Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, except so much thereof as provides for the payment of any fees that may be due to the clerk of the justices, shall be deemed to apply to extend to any proceedings under the direction of the board of trade, or under or by virtue of the provisions of the Principal Act or this Act, or any Act amending the same.

(The remaining sections of this Act [66-78] relate to this subject and apply to the United Kingdom only.)

The SCHEDULE referred to in this Act.

TABLE (A.) See Section 2.

Enactments to be repealed.

Reference to Act.	Title of Act.	Extent of Repeal.
8 & 9 Vict., c. 91.	An Act for the Warehousing of Goods.	Section 51 to be repealed immediately on the passing of this Act.
16 & 17 Vict., c. 107.	Customs Consolidation Act, 1853.	The last Proviso in Sections 74, and Sections 170, 171, and 172, to be repealed immediately on the passing of this Act.
17 & 18 Vict., c. 104.	Merchant Shipping Act, 1854.	Sections 295, 296, 297, 298, and 299, to be repealed from the date at which the Regulations contained in Table C. in this Schedule come into operation. Sections 300, 322, 323, 504, and 505, to be repealed immediately on the passing of this Act.
19 & 20 Vict., c. 75.	An Act for the further alteration and amendment of the laws and duties of Customs.	Section 8 to be repealed immediately on the passing of this Act.

TABLE (B.) See Section 6.

Fees to be charged on Examination of Engineers.

For a First-class Engineer's Certificate.....	£2	0	0
For a Second-class Engineer's Certificate...	1	0	0

TABLE (C.) See Section 25.

REGULATIONS FOR PREVENTING COLLISIONS AT SEA.

(These do not apply to Canadian waters. See note to Sections 25-33 of this Act.)

30 & 31 VICT., c. 124—1867.

An Act to amend the Merchant Shipping Act, 1854.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

Short Title.

1. This Act may be cited as "The Merchant Shipping Act, 1867," and shall be construed with and as part of "The Merchant Shipping Act, 1854," hereinafter termed the Principal Act.

Commencement of Act.

2. This Act shall come into operation on the first day of *January*, one thousand eight hundred and sixty-eight, but shall not apply to any ship which belongs to the United Kingdom and is absent therefrom at the time when this Act comes into operation until such ship has returned to the United Kingdom.

Sections 224, 227, and 231, of 17 & 18 Vict., c. 104, repealed.

3. The two hundred and twenty-fourth, two hundred and twenty-seventh, and two hundred and thirty-first sections of the Principal Act are hereby repealed.

Lime or lemon juice and other anti-scorbutics to be provided and kept on board certain ships.

4. The following rules shall be observed with respect to medicines, medical stores, and anti-scorbutics ; (that is to say,)

- (1.) The board of trade shall from time to time issue and cause to be published scales of medicines and medical stores suitable for different ships and voyages, and shall also prepare or sanction a book or books containing instructions for dispensing the same :
- (2.) The owners of every ship navigating between the United Kingdom and any place out of the same shall provide and cause to be kept on board such ship a supply of medicines and medical stores in accordance with the scale appropriate to the said ship, and also a copy of the said book or of one of the said books containing instructions :
- (3.) No lime or lemon juice shall be deemed fit and proper to be taken on board any such ship, for the use of the crew or passengers thereof, unless the same has been obtained from a bonded warehouse for and to be shipped as stores ;
and

and no lime or lemon juice shall be so obtained or delivered from any warehouse as aforesaid unless the same is shown, by a certificate under the hand of an inspector appointed by the board of trade, to be proper for use on board ship, such certificate to be given upon inspection of a sample after deposit of the said lime or lemon juice in the warehouse; nor unless the same contains fifteen *per centum* of proper and palatable proof spirits, to be approved by such inspector, or by the proper officer of customs, and to be added before or immediately after the inspection thereof; nor unless the same is packed in such bottles, at such time and in such manner, and is labelled in such manner as the Commissioners of Customs may direct; provided that when any such lime or lemon juice is deposited in any bonded warehouse, and has been approved as aforesaid by the said inspector, the said spirits, or so much of the said spirits as is necessary to make up fifteen *per centum*, may be added in such warehouse, without payment of any duty thereon; and when any spirit has been added to any lime or lemon juice, and the same has been labelled as aforesaid, it shall be deposited in the warehouse for delivery as ship's stores only, upon such terms and subject to such regulations of the Commissioners of Customs as are applicable to the delivery of ship's stores from the warehouse:

- (4.) The master or owner of every such foreign-going ship (except those bound to European ports or to ports in the Mediterranean Sea, and also except such ships or classes of ships bound to ports on the Eastern coast of America, North of the thirty-fifth degree of north latitude, and to any islands or places in the Atlantic Ocean, North of the same limit, as the board of trade may from time to time exempt from this enactment,) shall provide and cause to be kept on board such ship a sufficient quantity of lime or lemon juice from the warehouse duly labelled as aforesaid, such labels to remain intact until twenty-four hours at least after such ship shall have left her port of departure on her foreign voyage, or a sufficient quantity of such other anti-scorbutics, if any, of such quality, and composed of such materials, and packed and kept in such manner, as Her Majesty by Order in Council may from time to time direct:
- (5.) The master of every such ship as last aforesaid shall serve or cause to be served out the lime or lemon juice with sugar (such sugar to be in addition to any sugar required by the articles) or other such anti-scorbutics as aforesaid to the crew so soon as they have been at sea for ten days, and during the remainder of the voyage, except during such time as they are in harbour and are
there

there supplied with fresh provisions ; the lime or lemon juice and sugar to be served out daily at the rate of an ounce each per day to each member of the crew, and to be mixed with a due proportion of water before being served out, or the other anti-scorbutics, if any, at such times and in such quantities as Her Majesty by Order in Council may from time to time direct :

- (6.) If at any time when such lime or lemon juice or anti-scorbutics is or are so served out as aforesaid any seaman or apprentice refuses or neglects to take the same, such neglect or refusal shall be entered in the official log book in the manner provided by the two hundred and eighty-first section of the Principal Act, and shall be signed by the master and by the mate or some other of the crew, and also by the surgeon or medical practitioner on board, if any :

And if in any such ship as aforesaid such medicines, medical stores, book of instructions, lime or lemon juice, sugar, or anti-scorbutics as are hereinbefore required, are not provided, packed, and kept on board as hereinbefore required, the owner or master shall be deemed to be in fault, and shall for each default incur a penalty not exceeding twenty pounds, unless he can prove that the non-compliance with the above provisions, or any of them, was not caused through any inattention, neglect, or wilful default on his part ; and if the lime or lemon juice and sugar or other anti-scorbutics are not served out in the case and manner hereinbefore directed, or if entry is not made in the official log in the case and manner hereinbefore required, the master shall be deemed to be in fault, and shall for each default incur a penalty not exceeding five pounds, unless he can prove that the non-compliance with the above provisions, or any of them, did not arise through any neglect, omission, or wilful default on his part ; and if in any case it is proved that some person other than the master or owner is in default in any case under this section, then such other person shall be liable to a penalty not exceeding twenty pounds.

Penalty for
selling, &c.,
medicines, &c.,
of bad quality.

5. Any person who manufactures, sells, or keeps or offers for sale any such medicines or medical stores as aforesaid which are of bad quality, shall for each such offence incur a penalty not exceeding twenty pounds.

Power to
Governors, &c.,
to make regu-
lations as to
supply of lime
or lemon juice,
&c.

6. In any *British* Possession out of the United Kingdom the Governor or officer administering the government for the time being shall, subject to the laws of such possession, have power to make regulations concerning the supply within such possession of lime or lemon juice and anti-scorbutics for the use of ships ; and any lime or lemon juice or anti-scorbutics

ties duly supplied in accordance with any such regulations shall be deemed to be fit and proper for the use of ships.

7. Whenever it is shown that any seaman or apprentice who is ill has, through the neglect of the master or owner, not been provided with proper food and water according to his agreement, or with such accommodation, medicines, medical stores, or anti-scorbutics as are required by the Principal Act, or by this Act, then, unless it can be shown that the illness has been produced by other causes, the owner or master shall be liable to pay all expenses properly and necessarily incurred by reason of such illness (not exceeding in the whole three months wages), either by such seaman himself, or by Her Majesty's Government, or any Officer of Her Majesty's Government, or by any parochial or other local authority on his behalf, and such expenses may be recovered in the same way as if they were wages duly earned: Provided that this enactment shall not operate so as to affect any further liability of any such owner or master for such neglect, or any remedy which any seaman already possesses.

Seamen's expenses in case of illness through neglect of owner or master to be paid by them.

8. Where a seaman is by reason of illness incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is by reason of such illness incapable of performing his duty.

Forfeiture of wages, &c., of seamen when illness is caused by his own default.

9. The following rules shall be observed with respect to accommodation on board *British* ships; (that is to say,)

Place appropriated to seamen to have a certain space for each man, and to be properly constructed and kept clear.

- (1.) Every place in any ship occupied by seamen or apprentices, and appropriated to their use, shall have for every such seaman or apprentice a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet, measured on the deck or floor of such place:
- (2.) Every such place shall be such as to make the space aforesaid available for the proper accommodation of the men who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and as far as practicable properly shut off and protected from effluvium which may be caused by cargo or bilge water:
- (3.) No such place as aforesaid shall be deemed to be such as to authorize a deduction from registered tonnage, under the provisions hereinafter contained, unless there is or are in the ship one or more properly constructed privy or privies for the use of the crew; such privy or privies to be of such number and of such construction as may be approved by the surveyor hereinafter mentioned:

(4.)

- (4.) Every such place shall, whenever the ship is registered or re-registered, be inspected by one of the surveyors appointed by the board of trade under Part IV. of the Principal Act, who shall, if satisfied that the same is in all respects such as is required by this Act, give to the collector of customs a certificate to that effect, and thereupon such space shall be deducted from the register tonnage :
- (5.) No such deduction from tonnage as aforesaid shall be authorized unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every such place, the number of men which it is constructed to accommodate, with the words "certified to accommodate seamen" :
- (6.) Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage :
- (7.) Upon any complaint concerning any such place as aforesaid, one of the surveyors appointed by the board of trade may inspect such place, and if he finds that any of the provisions of this Act with respect to the same are not complied with he shall report the same to the collector of customs, at the port where the ship is registered, and thereupon the registered tonnage shall be altered, and the deduction aforesaid in respect of space disallowed, unless and until it shall be certified by such surveyor, or by some other surveyor appointed by the board of trade, that the provisions of the Act in respect of such place are fully complied with :
- (8.) If any such place in any ship is not kept free from goods and stores as aforesaid, the master shall be deemed to be in fault, and shall for every such failure to comply with the provisions of this section forfeit and pay to each seaman lodged in such place the sum of one shilling a day for each day after complaint made to him by any two or more of such seamen during which any goods or stores, not being the personal property of the crew, are stored or kept therein.
- (9.) If in any other respect the provisions of this section are not observed with respect to any such place in any ship the owner shall be deemed to be in fault, and shall for every failure to comply with the provisions of this section incur a penalty not exceeding twenty pounds.

(See *Imp. Act, 31 & 32 Vict., c. 129, s. 3.*)

10. The following rules shall be observed with respect to the medical inspection of seamen, that is to say :

Rules for
inspection
of seamen

- (1.) At any port where there is a local marine board the local marine board, and at other ports in the United Kingdom the board of trade, may appoint a medical inspector of seamen :
- (2.) Such medical inspector of seamen shall, on application by the master or owner of any ship, examine any seaman applying for employment in such ship, and shall give to the superintendent of the mercantile marine office a report under his hand stating whether such seaman is in a fit state for duty at sea, and a copy of such report shall be given to the master or owner of the ship :
- (3.) The master or owner applying for such inspection shall pay to the superintendent such fees as the board of trade direct, and such fees shall be paid into and form part of the mercantile marine fund :
- (4.) The said medical inspectors shall be remunerated for their services as the board of trade may direct, and such remuneration shall be paid out of the mercantile marine fund :
- (5.) In *British Possessions* out of the United Kingdom the Governor or other Officer administering the Government for the time being shall have the power of appointing medical inspectors of seamen, of charging fees for inspections, when applied for, and of determining the remuneration to be paid to such inspectors.

11. If any *British* subject commits any crime or offence on board any *British* ship, or on board any foreign ship to which he does not belong, any court of justice in Her Majesty's Dominions, which would have had cognizance of such crime or offence if committed on board a *British* ship within the limits of the ordinary jurisdiction of such court, shall have jurisdiction to hear and determine the case as if the said crime or offence had been committed as last aforesaid.

Offences by
British sub-
jects on board
ships.

(*Sec. 12 authorises Her Majesty to commission the Harbour Master at Holyhead as a justice of the peace.*)

31 & 32 VICT., c. 129—1868.

An Act to amend the Law relating to the Registration of ships in *British Possessions*.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Grant of terminable certificates of registry, subject to conditions, in colonies.

1. The Governor or Officer lawfully administering the Government of any *British Possession* may from time to time, with the approval of one of Her Majesty's Principal Secretaries of State, make regulations providing that on an application for registration under the Merchant Shipping Act, 1854, in that Possession of any ship not exceeding sixty tons burden, the registrar may grant, in lieu of a certificate of registry as required by that Act, a certificate of registry to be terminable at the end of six months from the granting thereof, or of any longer period; and all certificates of registry granted under any such regulations shall be in such form and shall have effect subject to such conditions as the regulations prescribe.

Ship to be deemed registered.

2. Notwithstanding anything in the Merchant Shipping Act, 1854, or in any other Act, any ship to which a certificate is granted under any such regulations shall, while such certificate is in force, and in relation to all things done or omitted during that period, be deemed a registered *British* ship.

Governors abroad may appoint surveyors.

3. The Governor of any *British Possession* abroad may from time to time appoint fit and proper persons to be surveyors, who shall have and exercise within such Possession all the powers with respect to the inspection of crew spaces that are conferred upon the board of trade surveyors in the United Kingdom by section nine of the Merchant Shipping Act, 1867.

Construction of Act.

4. This Act shall be read as one Act with the Merchant Shipping Act, 1854, and the Acts amending the same.

Short Title.

5. This Act may be cited as The Colonial Shipping Act, 1868.

32 VICT., c. 11—1869.

An Act for amending the Law relating to the Coasting Trade and Merchant Shipping in *British Possessions*.

[13th May, 1869.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as "*The Merchant Shipping* Short Title.
(*Colonial*) Act, 1869."

2. In this Act, unless the context otherwise requires,— Definition of terms.

The term "*British Possession*" means any territory or place situate within Her Majesty Dominions, and not forming part of the United Kingdom, or of the Channel Islands, or Isle of Man; and all territories and places under one legislature as hereinafter defined, are deemed to be one *British Possession* for the purposes of this Act: "British possession."

The term "*Legislature*" includes any person or persons who exercise legislative authority in the *British Possession*, and where there are local legislatures as well as a central legislature, means the central legislature only. "Legislature."

3. This Act shall be proclaimed in every *British Possession* by the Governor thereof, as soon as may be, after he receives notice of this Act, and shall come into operation in that *British Possession* on the day of such proclamation, which day is hereinafter referred to as the commencement of this Act. Commencement of Act.

Coasting Trade.

4. After the commencement of this Act the Legislature of a *British Possession*, by any Act or Ordinance, from time to time, may regulate the coasting trade of that *British Possession*, subject in every case to the following conditions:— Regulation of coasting trade by Colonial Legislature.

(1.) The Act or Ordinance shall contain a suspending clause, providing that such Act or Ordinance shall not come into

into operation until Her Majesty's pleasure thereon has been publicly signified in the *British Possession* in which it has been passed.

- (2.) The Act or Ordinance shall treat all *British* ships (including the ships of any *British Possession*) in exactly the same manner as ships of the *British* possession in which it is made :
- (3.) Where by treaty made before the passing of this Act, Her Majesty has agreed to grant to any ships of any foreign state, any rights or privileges in respect of the coasting trade of any *British Possession*, such rights and privileges shall be enjoyed by such ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

(See *Dom. Act, 33 Vict., c. 14.*)

Sections 323
and 163 of 16 &
17 Vict., c. 107
repealed.

5. The following sections of "*The Customs Consolidation Act, 1853*," are hereby repealed, namely :

Section three hundred and twenty-eight, as from the commencement of this Act :

Section one hundred and sixty-three as from the date in the case of each *British Possession* at which either an Act or Ordinance with respect to the coasting trade made within two years after the commencement of this Act in such *British Possession* comes into operation, or if there is no such Act or Ordinance, at which the said two years expire.

(See *Dom. Act, 33 Vict., c. 14.*)

Merchant Shipping.

Registrars of
British ships
in British pos-
sessions.

6. It shall be lawful for Her Majesty, by Order in Council, from time to time to declare, with respect to the *British Possession* mentioned in the order, the description of persons who are to be registrars of *British* ships in that *British Possession*, and to revoke any order so made; after the date specified in the order, or, if no date is specified,—after the date of the proclamation of the order in the *British Possession*, the order shall have effect as if it were contained in section thirty of "*The Merchant Shipping Act, 1854*."

(But see *Dom. Act, 36 Vict., c. 128, s. 10.*)

"Application
of Merchant
Shipping Acts
to Canada.

7. In the construction of "*The Merchant Shipping Act, 1854*," and of the Acts amending the same, Canada shall be deemed to be one *British Possession*.

8. Where the legislature of any *British* Possession provides for the examination of, and grant of certificates of competency to persons, intending to act as masters, mates or engineers on board *British* ships, and the board of trade reports to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient as the examinations for the same purpose in the United Kingdom, under the Acts relating to Merchant Shipping, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under the said Acts, and are liable to be forfeited, for the like reasons and in the like manner, it shall be lawful for Her Majesty, by Order in Council,

Colonial certificates to master, mates and engineers.

- (1.) To declare that the said certificates shall be of the same force as if they had been granted under the said Acts :
- (2.) To declare that all or any of the provisions of the said Acts which relate to certificates of competency granted under those Acts shall apply to the certificates referred to in the said order :
- (3.) To impose such conditions and to make such regulations with respect to the said certificates, and to the use, issue, delivery, cancellation and suspension thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.

Upon the publication in the *London Gazette* of any such Order in Council as last aforesaid, the provisions therein contained shall, from a date to be mentioned for the purpose in such order, take effect as if they had been contained in this Act.

It shall be lawful for Her Majesty in Council to revoke any order made under this section.

(See *Dom. Acts*, 31 *Vict.*, c. 65 ; 33 *Vict.*, c. 70 ; and 36 *Vict.*, c. 53.)

34 & 35 VICT., c. 110.

An Act to amend the Merchant Shipping Acts, 1871.

[21st August, 1871.]

WHEREAS it is expedient to amend the Merchant Shipping Acts :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

Short Title **1.** This Act may be cited as The Merchant Shipping Act, 1871.

Act to be construed with Merchant Shipping Act. **2.** This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1871.

Commencement of Act. **3.** This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-two.

Registry (Part II. of Merchant Shipping Act, 1854.)

(Section 4 prescribed the particulars to be marked upon ships before registry, but is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 33; and see Section 3 of that Act.)

Ship's draught of water to be recorded. **5.** The board of trade may, in any case or class of cases in which they think it expedient so to do, direct any person appointed by them for the purpose to record, in such manner and with such particulars as the Board of Trade direct, the draught of water of any sea-going ship, as shown on the scale of feet on her stem and on her stern post, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea; and such person shall thereupon keep such record, and shall from time to time forward the same, or a copy thereof, to the Board of Trade; and such record, or any copy thereof, if produced by or out of the custody of the Board of Trade, shall be admissable in evidence of the draught of water of the ship at the time specified in the record.

The

The master of every British sea-going ship shall, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water in the official log-book (if any), and shall produce such record to any principal officer of customs whenever required by him so to do, or in default of such production shall incur a penalty not exceeding twenty pounds.

6. With respect to the names of British ships, the following rules shall be observed :

Rules to be
observed in
naming of
ships.

- (1.) A ship shall not be described by any name other than that by which she is for the time being registered :
- (2.) No change shall be made in the name of a ship without the previous permission of the Board of Trade signified in writing under their seal, or under the hand of one of their secretaries or assistant secretaries. Upon such permission being granted, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern :
- (3.) If in any case it is shown to the satisfaction of the Board of Trade that the name of any ship has been changed without such permission as aforesaid, they shall direct that her name be altered into that which she bore before such change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly :
- (4.) Where a ship having once been registered has ceased to be so registered, no person, unless ignorant of such previous registry, (proof whereof shall lie on him,) shall apply to register, and no registrar shall knowingly register such ship, except by the name by which she was previously registered, unless with the permission of the Board of Trade granted as aforesaid.

Every person who acts or suffers any person under his control to act in contravention of this section, or who omits to do, or suffers any person under his control to omit to do, anything required by this section, shall for each offence incur a penalty not exceeding one hundred pounds, and any principal officer of customs may detain the ship until the provisions of this section are complied with.

Application for a change of name shall be made in writing to the Board of Trade. If the Board are of opinion that the application is made on reasonable grounds they may entertain the same, and shall thereupon require notice thereof to be published in such form and manner as they think fit.

(See

(See *Imp. Act, 36 & 37 Vict., c. 85, s. 5*; and *Dom. Act, 36 Vict., c. 128, s. 22*.)

Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

Survey of ships
alleged by sea-
men to be un-
seaworthy.

7. Whenever in any proceeding against any seaman or apprentice belonging to any ship for desertion, or for neglecting or refusing to join or to proceed to sea in his ship, or for being absent from or quitting the same without leave, it is alleged by one-fourth of the seamen belonging to such ship, or, if the number of such seamen exceed twenty, by not less than five such seamen, that such ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in such ship is insufficient, the court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of such allegation, and shall for that purpose receive the evidence of the person or persons making the same, and shall have power to summon any other witnesses whose evidence they may think it desirable to hear; the court shall thereupon, if satisfied that the allegation is groundless, proceed to adjudicate, but if not so satisfied shall cause such ship to be surveyed:

Provided that no seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for a survey under this section unless previously to his quitting his ship he has complained to the master of the circumstances so alleged in justification.

For the purposes of this section, the court shall require any of the surveyors appointed by the Board of Trade, under the Merchant Shipping Act, 1854, or any person appointed for the purpose by the Board of Trade, or, if such surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the court may think fit to put. Such surveyor or other person shall survey the ship, and make his report in writing to the court, including an answer to every question put to him by the court. The court shall cause such report to be communicated to the parties, and unless it is proved to the satisfaction of the court that the opinions expressed in such report are erroneous, the court shall determine the questions before them in accordance with those opinions.

For

For the purposes of such survey, a surveyor shall have all the powers of an inspector appointed by the Board of Trade, under the Merchant Shipping Act, 1854.

The costs (if any) of the survey shall be determined by the Board of Trade according to a scale of fees to be fixed by them, and shall be paid in the first instance out of the mercantile marine fund.

If it is proved to the satisfaction of the court that the ship is in a fit condition to proceed to sea, or, as the case may be, that the accommodation is sufficient, the costs of the survey shall be paid by the person or persons upon whose demand, or in consequence of whose allegation, the survey was made, and may be deducted by the master or owner out of the wages due or to become due to such person or persons, and shall be paid over to the Board of Trade.

If it is proved that the ship is not in a fit condition to proceed to sea, or, as the case may be, that the accommodation is insufficient, the cost of the survey shall be paid to the Board of Trade by the master or owner.

8. Any naval court may, if they think fit, direct a survey of any ship which is the subject of an investigation held before them, and such survey shall be made in the same way, and the surveyor who makes the same, shall have the same powers, as if the survey had been directed by a competent court in the course of proceedings against a seaman or apprentice for desertion or a kindred offence.

Power for
naval courts to
direct survey
of ships.

Safety (Part IV. of Merchant Shipping Act, 1854.)

(Sec. 9 prescribed the duties of Masters in case of collision but is repealed by Imp. Act, 36 & 37 Vict., c. 85, sec. 33, and see ss. 16 & 17 of that Act.)

(Sec. 10 gave power to the Board of Trade to declare ships unseaworthy, but did not apply to Canada and is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 33.)

(Sec. 11 made the sending a ship to sea in an unseaworthy state so as to endanger the lives of any person on board a misdemeanour, but this sec. is repealed by Imp. Act, 38 & 39 Vict., c. 88, s. 4, post, and a new section making more stringent provisions for the same purpose, is substituted.)

Repeal of certain sections of 17 and 18 Vict., c. 104, and 18 and 19 Vict., c. 91.

12. On and after the first day of January, one thousand eight hundred and seventy-two, the twenty-fifth and thirty-fourth sections of the Merchant Shipping Act, 1854, and the thirteenth section of the Merchant Shipping Act Amendment Act, 1855, shall be repealed.

35 & 36 VICT., c. 73—1872.

An Act to amend the Merchant Shipping Acts and the Passenger Acts.

WHEREAS it is expedient to amend the Merchant Shipping Acts and the Passenger Acts :

Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Preliminary.

Short Title. **1.** This Act may be cited as the Merchant Shipping Act, 1872.

**Commence-
ment of Act.** **2.** This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-three.

Measurement of Ships.

**Transfer to
Board of Trade
of duties of
Commission-
ers of Customs
with respect to
measurement
of ships.** **3.** The twenty-third, twenty-seventh, twenty-eighth, and twenty-ninth sections of the Merchant Shipping Act, 1854, the fourteenth section of the Merchant Shipping Act Amendment Act, 1855, and the fourth section of the Merchant Shipping Act, 1871, shall be read and construed as if the Board of Trade were therein named instead of the Commissioner of Customs.

Registry.

**Transfer to
Registrar-Gen-
eral of Seamen
of duties of
Commission-
ers of Customs
with respect to
registry of
ships.** **4.** The forty-sixth, fifty-fourth, ninety-second and ninety-fourth sections of the Merchant Shipping Act, 1854, shall be read and construed as if the Registrar General of Seamen were therein named instead of the Commissioners of Customs, and the returns required to be transmitted by the said ninety-fourth

fourth section of the Merchant Shipping Act, 1854, shall be transmitted to the Registrar General of Seamen and not to the custom house in London, and the Registrar General of Seamen shall be called the Registrar General of Shipping and Seamen.

Passenger Ships.

5. The sixth and seventh sections of the Passengers Act, 1855, except so much of the latter section as provides for the immunity of emigration officers, shall be repealed, and all powers and duties vested in or imposed on the Emigration Commissioners by the Passengers Act, 1855, and the Passengers Act Amendment Act, 1863, shall be transferred to and imposed on the Board of Trade.

Transfer to Board of Trade of powers and duties of Emigration Commissioners.

In the construction and for the purposes of the said Acts the name of the Board of Trade shall be deemed to be substituted for the name of the Emigration Commissioners and anything which might, if this Act had not passed, have been done by the Emigration Commissioners, whether acting independently or under the sanction or authority of one of Her Majesty's Principal Secretaries of State, may be done by the Board of Trade independently of such sanction or authority.

6. The provisions contained in the eighty-third section of the Passengers' Act, 1855, shall extend to any forms of application or other papers issued by or under the authority of one of Her Majesty's Principal Secretaries of State, for the use of persons desirous of emigrating by his assistance, and to any certificate, document, or statement adduced in support of any application to such Secretary for such assistance.

Extension of penalties for offences connected with applications for assistance in emigration.

7. The powers conferred by the thirteenth section of the Passengers' Act Amendment Act, 1863, on one of Her Majesty's Principal Secretaries of State, shall be transferred to the Board of Trade.

Transfer to Board of Trade of powers of Secretary of State under Passengers' Act.

Annual Survey of Passenger Steamers.

8. The three hundred and fourth section of the Merchant Shipping Act, 1854, shall be repealed, and every passenger steamer shall be surveyed once at the least in every year, in the manner mentioned in the fourth part of that Act.

Passenger steamers to be surveyed once in every year, according to 17 and 18 Vict., c. 104.

The fees to be charged for certificates issued in respect of such survey, shall not exceed for a yearly certificate twice the sum named in the table marked T in the schedule to the said Act as chargeable for a six months' certificate.

(Sections 9, 10 and 11, amend the provisions of the Principal Act as to pilotage, but do not extend to Canadian waters. Section 12 relates to fees for testing chain cables and applies only to the United Kingdom.)

General.

General.

Duties of surveyors.

13. All duties in relation to the survey and measurement of ships under this Act or the Acts amended hereby shall be performed by the surveyors appointed under the fourth part of the Merchant Shipping Act, 1854, in accordance with such regulations as may be from time to time made by the Board of Trade.

Fees and salaries of surveyors and emigration officers.

14. All fees payable in respect of the survey or measurement of ships under this Act or the Acts amended hereby, or in respect of any services performed by any person employed under the authority of the Passengers' Act, 1855, shall be paid to the superintendent of a mercantile marine office at such times and in such manner as the Board of Trade may from time to time direct, and shall be carried to the mercantile marine fund; and the salaries of surveyors and other expenses connected with the survey and measurement of ships under this Act or the Acts amended hereby, and also so much of the salaries and expenses of persons employed under the authority of the Passengers' Act, 1855, as has heretofore been paid by fees shall be paid out of the mercantile marine fund.

Penalty on surveyor, etc., receiving gratuity, etc., for duties performed under this Act.

15. If any surveyor, or any person employed under the authority of the Passengers' Act, 1853, demands or receives directly or indirectly, otherwise than by the direction of the Board of Trade, any fees, remuneration, or gratuity whatever, in respect of any of the duties performed by him under this Act or Acts amended hereby, he shall for every such offence incur a penalty not exceeding fifty pounds.

(Section 16 applies only to home-trade ships.)

Her Majesty may accept offers of persons recommended by the Admiralty to serve as officers of the Royal Naval Reserve.

17. It shall be lawful for Her Majesty to accept from time to time the offers of any person whom the Lord High Admiral or the Commissioners for executing his office may recommend, to serve as Officers of Reserve in the Royal Navy upon such terms and conditions as to Her Majesty may from time to time seem fit, and the "Officers of the Royal Naval Reserve Act, 1863," shall be read and construed as if this clause formed part of the said Act.

36 & 37 VICT., c. 85.

An Act to amend the Merchant Shipping Acts.

Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as the Merchant Shipping Act, Short Title. 1873.

2. This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1873. Construction of Act.

Registry (Part II. of Merchant Shipping Act, 1854.)

3. Every *British* ship registered after the passing of this Act shall before registry, and every *British* ship registered before the passing of this Act, shall on or before the first day of January, one thousand eight hundred and seventy-four, be permanently and conspicuously marked to the satisfaction of the Board of Trade, as follows : Particulars to be marked on British ships.

Her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches and of proportionate breadth :

Her official number and the number denoting her registered tonnage shall be cut in on her main beam :

A scale of feet denoting her draught of water shall be marked on each side of her stern and of her stern-post in Roman capital letters, or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby. Such letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade may from time to time approve. The Board of Trade may, however, exempt any class of ships from the requirements of this section or any of them :

If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds :

The

The marks required by this section shall be permanently continued and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by the Merchant Shipping Acts 1854 to 1873:

Any owner or master of a *British* ship who neglects to cause his ship to be marked as aforesaid, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds, and any officer of customs, on receipt of a certificate from a surveyor or inspector of the Board of Trade that a ship is insufficiently or inaccurately marked, may detain the same until the insufficiency or inaccuracy has been remedied:

Provided, that no fishing vessel, duly registered, lettered, and numbered, in pursuance of the Sea Fisheries Act, 1868, shall be required to have her name and port of registry marked under this section:

Provided also, that if any registered *British* ship, if not within a port of the United Kingdom at any time before the first day of January, one thousand eight hundred and seventy-four, she shall be marked as by this section required within one month after her next return to a *British* port of registry subsequent to that date.

(As to additional marks to be made on *British* ships see *Imp. Act, 38 & 39 Vict., c. 88, s s. 5 & 6.*)

Particulars to be entered in record of draught of water.

4. The records of the draughts of water of any sea-going ships required under section five of the Merchant Shipping Act, 1871, shall in addition to the particulars thereby required, specify the extent of her clear side in feet and inches.

The term "clear side" means the height from the water to the upper side of the deck, from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

Every master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit such person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of such record, and any master who fails so to do, or impedes or suffers any one under his control to impede any person so appointed in the execution of his duty, shall for each offence incur a penalty not exceeding five pounds.

Rules as to names of foreign ships

5. Whereas a foreign ship, not having at any previous time been registered as a *British* ship, becomes a *British* ship, no person

person shall apply to register, and no registrar shall knowingly register such ship except by the name she bore as a foreign ship immediately before becoming a *British* ship, unless with the permission of the Board of Trade granted in manner directed by section six of the Merchant Shipping Act, 1871.

placed on British register.

Any person who acts, or suffers any person under his control to act, in contravention of this section, shall for each offence incur a penalty not exceeding one hundred pounds.

6. When a ship has ceased to be registered as a *British* ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a *British* ship, such ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by one of the surveyors appointed by the Board of Trade and certified by him to be seaworthy.

Restrictions on re-registration of abandoned ships.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

7. Any agreement with a seamen made under section one hundred and forty-nine, of the Merchant Shipping Act, 1854, may, instead of stating the nature and duration of the intended voyage or engagement as by that section required, state the maximum period of the voyage or engagement and the places or parts of the world (if any) to which the voyage or engagement is not to extend.

Agreements with seamen.

(Section 8 relates to agreements with fishermen by owners of ships engaged in fishing off the coasts of the United Kingdom.)

9. If any seaman or apprentice belonging to any ship is detained on a charge of desertion or any kindred offence, and if, upon a survey of the ship being made under section seven of the Merchant Shipping Act, 1871, it is proved that she is not in a fit condition to proceed to sea, or that her accommodation is insufficient, the owner or master of the ship shall be liable to pay to such seaman or apprentice such compensation for his detention as the court having cognizance of the proceedings may award.

Compensation to seamen for unnecessary detention on charge of desertion.

(See Imp. Act., 38 & 39 Vict., c. 88, s. 8, post.)

10. In any case where the business of a mercantile marine office is conducted otherwise than under a local marine board, the Board of Trade may, if they think fit, instead of conducting such business at a custom house or otherwise, establish a mercantile marine office, and for that purpose procure the requisite buildings and property, and from time to time appoint and remove all the requisite superintendents, deputies, clerks, and servants. They may also in the like case make all such provisions and exercise all such powers with respect to the holding of examinations for the purpose of granting certificates

Power for Board of Trade to establish mercantile marine offices and to hold examinations at certain ports.

certificates of competency as masters, mates, or engineers, to persons desirous of obtaining the same, as might have been made or exercised by a local marine board.

Power of Her Majesty by Order in Council to apply certain provisions of Merchant Shipping Acts to foreign ships.

11. Whenever it has been made to appear to Her Majesty that the government of any foreign state is desirous that any of the provisions of the Merchant Shipping Acts, 1854 to 1873, relating to the engagement and discharge of seamen, shall apply to the ships of such state, Her Majesty may, by Order in Council, declare that such of the said provisions as are in such order specified, shall subject to the limitations, if any, contained in the order, apply, and thereupon, so long as the order remains in force, such provisions shall apply, subject to the said limitations, to the ships of such state and to the owners, masters, officers and crews of such ships when not within the jurisdiction of such state, in the same manner in all respects as if such ships were *British* ships.

It shall and may be lawful for Her Majesty, from time to time, by Order in Council, to add to, alter or repeal any Order made under this section.

Safety and Prevention of Accidents (Part IV. of Merchant Shipping Act, 1854.)

Survey of ships suspected of being unseaworthy.

12. Where the Board of Trade have received a complaint or have reason to believe that any *British* ship is by reason of the defective condition of her hull, equipment, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, they may, if they think fit, appoint some competent person or persons to survey such ship and the equipments, machinery, and cargo thereof, and to report thereon to the Board.

Any person so appointed may, for the purpose of such survey, require the unloading or removal of any cargo, ballast or tackle, and shall have all the powers of an inspector appointed under The Merchant Shipping Act, 1854.

Any person who (having notice of the intention to hold such survey) wilfully does or causes to be done any act by which the person appointed to make such survey is prevented from or obstructed in ascertaining the condition of the ship, her equipments, machinery and cargo shall be liable to a penalty not exceeding fifty pounds.

The Board of Trade may, if they think fit, order that any ship be detained for the purpose of being surveyed under this section, and thereupon any officer of customs may detain such ship until her release be ordered either by the Board of Trade, or by any court to which an appeal is given under this Act.

Upon the receipt of the report of the person making any such survey, the Board may, if, in their opinion, the ship cannot proceed to sea without serious danger to human life,
make

make such further order as they may think requisite as to the detention of the ship, or as to her release, either absolutely or upon the performance of such conditions with respect to the execution of repairs or alterations or the unloading or re-loading of cargo, as the Board may impose. They may also, from time to time, vary or add to such order.

A copy of any such order, and of the report upon which it was founded, and also of any variation of, or addition to, such order, shall be delivered as soon as possible to the owner or master of the ship to which it relates.

When a ship has been detained under this section she shall not be released by reason of her *British* register having been closed.

(See *Imp. Act, 38 & 39 V., c. 88, s s. 1 & 2, post.*)

13. If upon the survey of a ship under this Act, she is reported to have been at the time of the survey, having regard to the nature of the service for which she was then intended, unfit to proceed to sea without serious danger to human life, the expenses incurred by the Board of Trade in respect of the survey shall be paid by the owner of the ship to the Board of Trade, and shall, without prejudice to any other remedy, be recoverable by them in the same manner as salvage is recoverable.

Costs of
survey.

If upon such survey the ship is not reported to have been unfit to proceed to sea, having regard to the nature of the service for which she was intended, the Board of Trade shall be liable to pay compensation to any person for any loss or damage which he may have sustained by reason of the detention of the ship for the purpose of the survey or otherwise in respect of such survey.

Where a complaint has been made to the Board of Trade that a ship is not fit to proceed to sea, they may, if they think fit, before ordering a survey of the ship, require the complainant to give or provide such security as they may think sufficient for the payment of the costs and expenses which they may incur in respect of the survey of the ship, and of the compensation which they may be rendered liable to pay for loss or damage caused by her detention, for the purpose of such survey or otherwise in respect of such survey.

Where a ship has been surveyed under this Act in consequence of a complaint made to the Board of Trade, if upon such survey being made it appear that such complaint was made without reasonable cause, the expenses incurred by the Board in respect of the survey of the ship and the amount (if any) which the Board may have been rendered liable to pay in respect of any loss or damage caused by her detention, shall be recoverable by the Board from such complainant.

All moneys payable by the Board of Trade in respect or by reason of the survey or detention of a ship under this Act, shall, subject to the right by this section provided of recovering such moneys from the complainant, be paid out of moneys to be provided by Parliament.

(See note to Sec. 12, *supra*.)

Appeal from
decision of
Board of
Trade.

14. If the owner of any ship surveyed under this Act is dissatisfied with any order of the Board of Trade made upon such survey, he may apply to any of the following courts having jurisdiction in the place where such ship was surveyed; that is to say,—

In *England*, to any court having admiralty jurisdiction :

In *Ireland*, to any court having jurisdiction under the Court of Admiralty (*Ireland*) Act, 1867 :

In *Scotland*, to the court of the sheriff of the county.

The court may upon such application, if they think fit, appoint one or more competent persons to survey the ship anew, and any surveyor so appointed shall have all the powers of the person by whom the original survey was made. Such survey shall, if so required by the Board of Trade or the shipowner, be made in the presence of any person or persons appointed by them respectively to attend at the survey.

The court to which such application is made may make such order as to the detention or release of the ship, as to the payment of any costs and damages which may have been occasioned by her detention, as to the payment of the expenses of the original survey and of the survey anew and otherwise as to the payment of any costs of and incident to the application as to the court may seem just.

(The remaining clauses of this section related only to applications to county and local courts in *England* and *Ireland* respectively. See note to Sec. 12, *supra*.)

Power of
Board of Trade
to vary re-
quirements
as to boats.

15. In the case of any ship surveyed under the fourth part of the Merchant Shipping Act, 1854, the Board of Trade may, at the request of the owner, authorize the reduction of the number and the variation of the dimensions of the boats required for the ship by section two hundred and ninety-two of that Act, and also the substitution of rafts or other appliances for saving life for any such boats, so nevertheless that the boats so reduced or varied and the rafts or other appliances so substituted be sufficient for the persons carried on board the ship.

Section two hundred and ninety-three of the said Act shall extend to any such rafts or appliances in the same manner as if they were boats.

16. In every case of collision between two vessels it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any), to stay by the other vessel until he has ascertained that she has no need of further assistance, and to render to the other vessel, her master, crew, and passengers (if any), such assistance as may be practicable and as may be necessary, in order to save her from any danger caused by the collision; and also to give to the master or person in charge of the other vessel, the name of his own vessel and her port of registry and of the port or place to which she belongs, and also the names of the ports and places from which and to which she is bound.

Duties of masters in case of collision.

If he fail so to do and no reasonable cause is shewn, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Every master or person in charge of a *British* vessel who fails, without reasonable cause, to render such assistance or give such information as aforesaid, shall be deemed guilty of a misdemeanour, and if he is a certificated officer an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

(See *Dom. Act, 31 Vict., c. 58, s. 11.*)

17. If in any case of collision it is proved to the court before which the case is tried that any of the regulations for preventing collisions contained in or made under the Merchants' Shipping Acts, 1854 to 1873, has been infringed, the ship by which such regulation shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.

Liability for infringement of regulations in cases of collision.

(See *Dom. Act, 31 Vict., c. 58, s. 6.*)

18. The signals specified in the first schedule to this Act shall be deemed to be signals of distress.

Signals of distress.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display any of the said signals except in the case of a vessel being in distress, shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained, in consequence of such signals having been supposed to be a signal of distress, and such compensation may without prejudice to any other remedy be recovered in the same manner in which salvage is recoverable.

19. If a vessel requires the services of a pilot, the signals to be used and displayed shall be those specified in the second schedule of this Act.

Signals for pilots.

Any

Any master of a vessel who uses, or causes or permits any person under his authority to use or display any of the said signals for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, shall incur a penalty not exceeding twenty pounds.

Power to alter rules as to signals.

20. Her Majesty may from time to time by Order in Council repeal or alter the rules as to signals contained in the schedules to this Act, or make new rules in addition thereto, or in substitution therefor, and any alterations in or additions to such rules made in manner aforesaid shall be of the same force as the rules in the said schedules.

Private signals.

21. Any shipowner who is desirous of using, for the purpose of a private code, any rockets, lights, or other similar signals, may register such signals with the Board of Trade, and the Board shall give notice of the signals so registered in such manner as they may think requisite for preventing such signals from being mistaken for signals of distress or signals for pilots.

The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress or signals for pilots.

When any signal has been so registered the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered, shall not subject any person to any of the penalties, or liabilities by this Act imposed upon persons using or displaying signals improperly.

Notice to be given of apprehended loss of ship.

22. If the managing owner or in the event of there being no managing owner, the ship's husband, of any *British* ship have reason, owing to the non-appearance of such ship or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board of Trade notice in writing of such loss and of the probable occasion thereof, stating the name of the ship and her official number (if any), and the port to which she belongs, and if he neglects to do so within a reasonable time, he shall incur a penalty not exceeding fifty pounds.

Restrictions on carriage of dangerous goods.

23. If any person sends or attempts to send by, or not being the master or owner of the vessel, carries or attempts to carry in any vessel, *British* or foreign, any dangerous goods (that is to say), aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitro-glycerine, petroleum, or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and give written notice of the nature of such goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time

of

of sending the same to be shipped, or taking the same on board the vessel, he shall for every such offence incur a penalty not exceeding one hundred pounds; provided, that if such person shew that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect that the goods shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed ten pounds.

24. If any person knowingly sends or attempts to send by or carries or attempts to carry in any vessel, *British* or foreign, any dangerous goods or goods of a dangerous nature under a false description, or falsely describes the sender or carrier thereof, he shall incur a penalty not exceeding five hundred pounds.

Penalty for mis-description of dangerous goods.

25. The master or owner of any vessel, *British* or foreign, may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact.

Power to refuse to carry goods suspected of being dangerous.

26. Where any dangerous goods are defined in this Act, or any goods which in the judgment of the master or owner of the vessel are of a dangerous nature, have been sent or brought aboard any vessel, *British* or foreign, without being marked as aforesaid, or without such notice having been given, the master or owner of the vessel may cause such goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the vessel shall in respect of such throwing overboard be subject to any liability, civil or criminal, in any court.

Power to throw overboard dangerous goods.

27. Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, *British* or foreign, without being marked as aforesaid or without such notice having been given as aforesaid, and where any such goods have been sent or carried, or attempted to be sent or carried under a false description, or the sender or carrier thereof has been falsely described, it shall be lawful for any court having admiralty jurisdiction to declare such goods, and any package or receptacle in which they are contained, to be and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs.

Forfeiture of dangerous goods improperly sent.

The court shall have and may exercise the aforesaid powers of forfeiture and disposal, notwithstanding that the owner of the goods have not committed any offence under the provisions of this Act relating to dangerous goods, and be not before the court and have not notice of the proceedings, and notwithstanding that there be no evidence to show to whom the goods belong; nevertheless the court may in its discretion require such notice as it may direct to be given to the owner or shipper of the goods before the same are forfeited.

Saving as to dangerous goods Act.

28. The provisions of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for, or in restraint of, any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorize that any person be sued or prosecuted twice in the same matter.

(See "*The Carriage of Dangerous Goods Act, 1873.*" [Dom. Act, 36 Vict., c. 8].)

(Section 29 provided that certain foreign ports might be declared ports of registry.)

Fees in respect of surveys.

30. There shall be paid in respect of the several measurements, inspections and surveys, mentioned in the third schedule hereto, such fees not exceeding those specified in that behalf in the said schedule, as the Board of Trade may from time to time determine.

Board of Trade may sue in name of its officers.

31. In any legal proceedings under the Merchant Shipping Acts, 1854 to 1873, the Board of Trade may take proceedings in the name of any of their officers.

Certain sections not to come into force until 1st Nov., 1873.

32. The following sections of this Act (that is to say), sections sixteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, and twenty-eight, shall not come into operation until the first day of November, one thousand eight hundred and seventy-three.

Repeal of certain sections of the Merchant Shipping Acts, 1862 and 1871, and of certain other sections of Merchant Shipping Acts 1854, 1862, and 1871.

33. Section twenty-nine of the Merchant Shipping Act Amendment Act, 1862, and sections four and ten of the Merchant Shipping Act, 1871, are hereby repealed; and on and after the first day of November, one thousand eight hundred and seventy-three, sections three hundred and twenty-seven and three hundred and twenty-nine of the Merchant Shipping Act, 1854; sections thirty-three and thirty-eight of the Merchant Shipping Act Amendment Act, 1862; and section nine of the Merchant Shipping Act Amendment Act, 1871, shall be repealed, but this repeal shall not affect

- (1.) Anything duly done before this Act comes into operation:
- (2.) Any right acquired or liability accrued before this Act comes into operation:
- (3.) Any penalty, forfeiture, or other punishment incurred or to be incurred, in respect of any offence committed before this Act comes into operation; or,
- (4.) The institution of any legal proceeding or any other remedy for ascertaining, enforcing, or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULES.

SCHEDULES.

SCHEDULE I.

Signals of Distress.

IN THE DAY-TIME.—The following signals numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress in the day time :—

1. A gun fired at intervals of about a minute.
2. The International Code signal of distress indicated by N C.
3. The distant signal consisting of a square flag, having, either above or below it, a ball, or anything resembling a ball.

AT NIGHT.—The following signals numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress at night :—

1. A gun fired at intervals of about a minute.
2. Flames on the ship (as from a burning tar barrel, oil barrel, etc.)
3. Rockets or shells of any colour or description fired one at a time at short intervals.

SCHEDULE II.

Signals to be made by Ships wanting a Pilot.

IN THE DAY-TIME.—The following signals numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot in the day time, viz :—

1. To be hoisted at the fore, the Jack or other national colour usually worn by merchant ships, having round it a white border one fifth of the breadth of the flag ; or,
2. The International Code pilotage signal indicated by P T.

AT NIGHT.—The following signals numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot at night, viz :—

1. The pyrotechnic light, commonly known as a blue light, every fifteen minutes ; or,
2. A bright white light, flashed or shewn at short or frequent intervals, just above the bulwarks, for about a minute at a time.

SCHEDULE III.

Table of Maximum Fees to be paid for the measurement, survey and inspection of merchant ships.

1. *For measurement of tonnage.*

	£	s.	d.
For a ship under 50 tons register tonnage.....	1	0	0
“ from 50 to 100 “	1	10	0
“ “ 100 to 200 “	2	0	0
“ “ 200 to 500 “	3	0	0
“ “ 500 to 800 “	4	0	0
“ “ 800 to 1,200 “	5	0	0
“ “ 1,200 to 2,000 “	6	0	0
“ “ 2,000 to 3,000 “	7	0	0
“ “ 3,000 to 4,000 “	8	0	0
“ “ 4,000 to 5,000 “	9	0	0
“ “ 5,000 and upwards.....	10	0	0

2. *For the inspection of the berthing or sleeping accommodation of the crew.*

	£	s.	d.
For each visit to the ship.....	0	10	0

Provided as follows :

1. The aggregate amount of the fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.
2. When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

3. *For the survey of emigrant ships.*

	£	s.	d.
(a) For an ordinary survey of the ship and of her equipments, accommodation, stores, light, ventilation, sanitary arrangements, and medical stores.....	10	0	0
(b) For a special survey.....	15	0	0
(c) In respect of the medical examination of passengers and crew for every hundred persons or fraction of a hundred persons examined	1	0	0

4. *For the inspection of lights and fog signals.*

For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective	0	10	0
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Provided that the aggregate amount of fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.

38 & 39 VICT., c. 88—1875.

An Act to make provisions for giving further powers to the Board of Trade for stopping unseaworthy ships.

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows :

1. The Board of Trade may forthwith, and from time to time, by special order, appoint a sufficient number of fit and proper persons, from their own staff or otherwise, to be officers having authority to detain unseaworthy ships, and may from time to time revoke any such appointment.

Appointment and powers of officers having authority to detain unseaworthy ships.

If any officer so appointed has reason to believe, upon inspection or otherwise, that any *British* ship is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, he may order that the ship be detained for the purpose of being surveyed. Any such order shall have the same effect as if it were an order of the Board of Trade, under section twelve, of the Merchant Shipping Act, 1873.

For the purpose of ascertaining whether a *British* ship is fit to proceed to sea, any officer so appointed may go on board the ship and inspect the same, or any part thereof, or any of the machinery, boats, equipments, or other articles on board thereof, not unnecessarily detaining or delaying her from proceeding on her voyage ; and any person who wilfully impedes him in the execution of his duty shall be liable to the same penalties, and may be dealt with in the same manner, as if the officer were an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854.

When any officer so appointed orders a ship to be detained, he shall forthwith report his proceedings to the Board of Trade.

An officer so appointed shall receive such remuneration for his services under this Act as the Treasury from time to time direct, and such remuneration shall be paid out of moneys to be provided by Parliament.

Ship to be detained on complaint of crew.

2. Whenever a complaint is made to the Board of Trade, or to any officer so appointed, by one-fourth the seamen belonging to any *British* ship, that the ship is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, it shall be the duty of the Board or officer, as the case may be, if the complaint is made within time sufficient for that purpose before the sailing of the ship, without requiring any security for the payment of costs and expenses, to take proper steps for ascertaining whether the ship ought to be detained for the purpose of being surveyed under the Merchant Shipping Act, 1873.

Cargo of grain, &c.

3. From and after the first day of October, one thousand eight hundred and seventy-five, no cargo, of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts, or nut kernels, shall be carried on board any *British* ship, unless such grain, corn, rice, paddy, pulse, nuts, or nut kernels, be contained in bags, sacks, or barrels, or secured from shifting by boards, bulkheads, or otherwise. This section shall not apply to any grain shipped previous to the first of October, one thousand eight hundred and seventy-five.

The master of any *British* ship who shall knowingly allow any cargo or part of a cargo to be shipped therein for carriage contrary to the provisions of this section, shall for every such offence incur a penalty not exceeding two hundred pounds.

Penalties for sending unseaworthy ships to sea.

4. Section eleven, of the Merchant Shipping Act, 1871, shall be repealed, and in lieu thereof it shall be enacted :

- (1.) Every person who sends a ship to sea in such unseaworthy state that the life of any person would be likely to be thereby endangered, and the managing owner of any *British* ship so sent to sea from any port in the United Kingdom, shall be guilty of a misdemeanour, unless he prove that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or prove that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and, for the purpose of giving such proof, such person may give evidence in the same manner as any other witness :
- (2.) Every person who attempts, or is party to any attempt, to send to sea any ship in such unseaworthy state that the life of any person would be likely to be thereby endangered, shall be guilty of a misdemeanour, unless he give such proof as aforesaid; and, for the purpose of giving such proof, such person may give evidence as aforesaid :

(3.)

- (3.) Every master of a *British* ship who knowingly takes the same to sea in such unseaworthy state that the life of any person would be likely to be thereby endangered, shall be guilty of a misdemeanour, unless he prove that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and, for the purpose of giving such proof, such person may give evidence as aforesaid:
- (4.) The owner of every *British* ship shall from time to time register, at the custom house of the port in the United Kingdom at which such ship is registered, the name of the managing owner of such ship, and if there be no managing owner, then of the person to whom the management of the ship is entrusted by and on behalf of the owner; and in case the owner fail or neglect to register the name of such managing owner or manager as aforesaid, he shall be liable, or if there be more owners than one, each owner shall be liable, in proportion to his interest in the ship, to a penalty not exceeding in the whole five hundred pounds each time that the said ship leaves any port in the United Kingdom, after the first day of November, one thousand eight hundred and seventy-five, without the name be duly registered as aforesaid:
- (5.) The term “managing owner” in subsection one shall include every person so registered as managing owner or as having the management of the ship for and on behalf of the owner:
- (6.) No prosecution under this section shall be instituted except by or with the consent of the Board of Trade:
- (7.) No misdemeanour under this section shall be punishable upon summary conviction, provided that the repeal enacted by this section shall not affect any punishment incurred or to be incurred in respect of any offence against the enactment hereby repealed, or any legal proceedings in respect of any such punishment, and any such legal proceeding may be carried on as if this Act had not passed.

5. Every *British* ship registered on or after the first day of November, one thousand eight hundred and seventy-five, shall, before registry, and every *British* ship registered before that day shall, on or before that day, be permanently and conspicuously marked with lines of not less than twelve inches breadth, painted longitudinally on each side amidships or as near thereto as it is practicable, and indicating the position of each deck which is above water.

Marking of
deck lines.

The upper edge of each of these lines shall be level with the upper side of the deck plank next the water way at the place of marking.

The lines shall be white or yellow on a dark ground, or black on a light ground, provided that—

- (1.) This section shall not apply to ships employed in the coasting trade, or in fishing, nor to pleasure yachts; and
- (2.) If a registered *British* ship is not within a *British* port of registry at any time before the first day of November, one thousand eight hundred and seventy-five, she shall be marked as by this section required within one month after her next return to a *British* port of registry subsequent to that date.

Statement of
load line.

6. With respect to the marking of a load line on *British* ships, the following provisions shall have effect :

- (1.) From and after the first day of November, one thousand eight hundred and seventy-five, the owner of every *British* ship shall, before entering his ship outwards from any port in the United Kingdom upon any voyage for which he is required so to enter her, or if that is not practicable, as soon after as may be, mark upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc, twelve inches in diameter, with a horizontal line, eighteen inches in length, drawn through its centre :
- (2.) The centre of this disc shall indicate the maximum load line in salt water to which the owner intends to load the ship for that voyage :
- (3.) He shall also, upon so entering her, insert in the form of entry delivered to the collector or other principal officer of customs, a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre :
- (4.) If default is made in delivering this statement in the case of any ship, any officer of customs may refuse to enter the ship outwards :
- (5.) The master of the ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no superintendent of any mercantile marine office shall proceed with the engagement of the crew until this entry is made :

(6.) The master of the ship shall also enter a copy of this statement in the official log book :

(7.) When a ship has been marked as by this section required, she shall be kept so marked until her next return to a port of discharge in the United Kingdom.

7. Any owner or master of a *British* ship who neglects to cause his ship to be marked as by this Act required, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars being thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds.

Penalty for offences in relation to marks on ships.

If any of the marks required by this Act is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds.

8. Where a claim of compensation, under the Merchant Shipping Act, 1873, is made against the Board of Trade, and liability to pay compensation or the amount thereof is in dispute, proceedings may be taken against the Board of Trade by action against the principal secretary thereof as nominal defendant.

Proceedings may be taken against the Board of Trade by action against the principal Secretary

9. In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the part of the owner of the ship, to the master, seaman, or apprentice, that the owner of the ship, his agents and servants, shall use all reasonable efforts to ensure the seaworthiness of the ship for the voyage at the commencement thereof, and to keep her in a seaworthy condition during the voyage ;

Liability of ship-owner to crew.

Provided that nothing in this section shall make the owner of a ship liable for the death of or any injury to a master, seaman, or apprentice, belonging to any ship, when caused by the wrongful act, neglect, or default of a seaman or apprentice belonging to the same ship, in any case where he would not otherwise be so liable.

10. This Act may be cited as the Merchant Shipping Act, 1875, and shall be construed one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1875.

Short Title.

11. This Act shall continue in force until the first day of October, one thousand eight hundred and seventy-six.

Duration of Act.

THE

THE FOLLOWING STATUTES OF THE DOMINION RELATING TO MERCHANT SHIPPING AND COGNATE SUBJECTS APPLY TO ONTARIO:

31 VICT., c. 57 ;

An Act for the organization of the Department of Marine and Fisheries of Canada.

31 VICT., c. 58 ;

An Act respecting the Navigation of Canadian Waters.

31 VICT., c. 59 ;

An Act respecting the Inspection of Steamboats and the greater safety of Passengers by them.

32 & 33 VICT., c. 22, secs. 48-57 ;

These sections define and prescribe penalties for malicious injuries to vessels.

32 & 33 VICT., c. 38 ;

An Act respecting Inquiries and Investigations into Shipwrecks and other matters.

32 & 33 VICT., c. 39.

An Act to amend the Act *respecting the Inspection of Steamboats, and for the greater safety of passengers by them.*

33 VICT., c. 39 ;

An Act to make Provision for Discipline on board of Canadian Government vessels.

33 VICT., c. 17 ;

An Act respecting Certificates to Masters and Mates of ships.

33 VICT., c. 18 ;

An Act to amend the Act relating to lighthouses, buoys, and beacons.

36 VICT., c. 8 ;

“ The Carriage of Dangerous Goods Act, 1873.”

36 VICT., c. 53 ;

An Act to amend the Acts respecting the Inspection of Steamboats.

36 VICT.,

36 VICT., c. 55.

An Act respecting Wreck and Salvage.

36 VICT., c. 56 ;

An Act respecting Deck Loads.

36 VICT., c. 57 ;

An Act to provide for keeping order on board Passenger Steamers.

36 VICT., c. 128 ;

An Act relating to Shipping, and for the Registration, Inspection and Classification thereof.

37 VICT., c. 29 ;

An Act for the removing of obstructions by wreck and like causes in navigable waters of Canada and other purposes relative to wrecks.

37 VICT., c. 30 ;

An Act further to amend the " Act respecting the Inspection of Steamboats."

38 VICT., c. 27 ;

An Act to amend " An Act respecting the Coasting Trade of Canada."

38 VICT., c. 29 ;

An Act to extend certain provisions of " The Seamen's Act, 1873," to vessels employed in navigating the inland waters of Canada.

22 VICT., c. 20—1858.

An Act to provide for taking evidence in suits and proceedings pending before tribunals in Her Majesty's Dominions in places out of the jurisdiction of such tribunals.

WHEREAS it is expedient that facilities be afforded for taking evidence in or in relation to actions, suits, or proceedings pending before tribunals in Her Majesty's Dominions, in places out of the jurisdiction of such tribunals:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Order for examination of witnesses out of the jurisdiction in relation to any suit pending before any tribunal in Her Majesty's Dominions.

1. Where upon an application for this purpose it is made to appear to any court or judge having authority under this Act, that any court or tribunal of competent jurisdiction in Her Majesty's Dominions has duly authorized, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit, or proceeding pending in or before such court or tribunal, and within the jurisdiction of such first mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination before the person or persons appointed, and in manner and form directed by such commission, order, or other process as aforesaid, of such witness or witnesses accordingly; and it shall be lawful for the said court or judge by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writing or other documents to be mentioned in such order, and to give all such directions as to time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just, and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such court or judge in a cause depending in such court or before such judge.

Penalty on persons giving false evidence.

2. Every person examined as a witness, under any such commission, order, or other process, as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence, shall be deemed and taken to be guilty of perjury.

3. Provided always, that every person whose attendance shall be so ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial.

Payment of expenses.

4. Provided also, that every person examined under any such commission, order, or other process, as aforesaid, shall have the like right to refuse to answer any questions tending to criminate himself, and other questions which a witness in any cause pending in the court by which, or by a judge whereof, or before the judge by whom the order for examination was made, would be entitled to; that no person shall be compelled to produce, under any such order as aforesaid, any writing or other document that he would not be compellable to produce at the trial of such cause.

Power to persons to refuse to answer questions to criminate himself or to produce document.

5. Her Majesty's Superior Courts of Common Law at *Westminster* and in *Dublin* respectively, the Court of Session in *Scotland*, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who, by any Order of Her Majesty in Council, may be appointed for this purpose, shall respectively be courts and judges having authority under this Act.

Certain courts and judges to have authority under this Act.

6. It shall be lawful for the Lord Chancellor of *Great Britain*, with the assistance of two of the judges of the Courts of Common Law at *Westminster*, so far as relates to *England*, and for the Lord Chancellor of *Ireland*, with the assistance of two of the judges of the Courts of Common Law at *Dublin*, so far as relates to *Ireland*, and two of the judges of the Court of Session, so far as relates to *Scotland*, and for the chief or only judge of the Supreme Court in any of Her Majesty's colonies or possessions, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

Power to judges to frame rules, &c. for giving effect to provisions of this Act.

22 & 23 VICT., c. 63—1859.

An Act to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's Dominions when pleaded in the courts of another part thereof.

WHEREAS great improvements in the administration of the law would ensue if facilities were afforded for more certainly ascertaining the law administered in one part of Her Majesty's Dominions when pleaded in the courts of another part thereof ;

Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Courts in one part of Her Majesty's Dominions may remit a case for the opinion in law of a Court in any other part thereof.

1. If, in any action depending in any court within Her Majesty's Dominions, it shall be the opinion of such court that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's Dominions on any point on which the law of such other part of Her Majesty's Dominions is different from that in which the court is situate, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of a jury or other mode competent, or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing, and upon such case being approved of by such court or a judge thereof, they shall settle the questions of law arising out of the same, on which they desire to have the opinion of another court, and shall pronounce an order remitting the same, together with the case, to the court in such other part of Her Majesty's Dominions, being one of the Superior Courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case, and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act ; and it shall be competent to any of the parties to the action to present a petition to the court whose opinion is to be obtained praying such last-mentioned court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their
opinion

opinion without hearing parties or counsel; and the court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the court; and in order to their pronouncing such opinion, they shall be entitled to take such further procedure thereupon as to them shall seem proper.

2. Upon such opinion being pronounced a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required and shall be deemed and held to contain a correct record of such opinion.

Opinion to be authenticated and certified copy given.

3. It shall be competent to any of the parties to the action after having obtained such certified copy of such opinion, to lodge the same with an officer of the court in which the action may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said court shall thereupon apply such case to such facts in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court or upon a special verdict of a jury, or the said last mentioned court shall, if it thinks fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence or conclusive evidence, as the court may think fit, of the foreign law therein stated and the said opinion shall be so submitted to the jury.

Opinion to be applied by the Court making the remit.

4. In the event of an appeal to Her Majesty in Council or to the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords, the opinion pronounced as aforesaid by any court whose judgments are reviewable by Her Majesty in Council or the House, and Her Majesty in Council or that House may respectively adopt or reject such opinion of any court whose judgments are respectively reviewable by them as the same shall appear to them to be well founded or not in law.

Her Majesty in Council or House of Lords, on appeal, may adopt or reject opinion.

5. In the construction of this Act the word "Action" shall include every judicial proceeding instituted in any court, civil, criminal or ecclesiastical; and the words "Superior Court" shall include, in *England*, the Superior Courts of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice Chancellor, the Judge of the Court

Interpretation of terms.

Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate; in *Scotland*, the High Court of Justiciary and the Court of Session acting by either of its divisions; in *Ireland*, the Superior Courts of Law at *Dublin*, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's Dominions, the Superior Courts of Law and Equity therein.

25 VICT., c. 20—1862.

An Act respecting the issue of Writs of Habeas Corpus out of *England* into Her Majesty's Possessions abroad.

“ **W**HEREAS it is expedient that writs of Habeas Corpus should not issue out of *England* into any colony or foreign dominion of the Crown, where Her Majesty has a lawfully established court or courts of justice having authority to grant and issue the said writ and to ensure the due execution thereof throughout such colony or foreign dominion.”

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Writ not to issue out of England to any colony having courts with authority to grant same.

1. No writ of Habeas Corpus shall issue out of *England*, by authority of any judge or court of justice therein, into any colony or foreign dominion of the Crown, where Her Majesty has a lawfully established court or courts of justice having authority to grant and issue the said writ and to insure the due execution thereof throughout such colony or dominion.

Not to affect right of appeal to Her Majesty in Council.

2. Provided that nothing in this Act contained shall affect or interfere with any right of appeal to Her Majesty in Council now by law existing.

26 & 27 VICT., c. 84—1863.

An Act to confirm certain Acts of Colonial Legislatures.

“**W**HEREAS doubts are entertained respecting the validity of divers Acts passed by the Legislature of *South Australia*, for the purpose of altering the constitution of the Legislative Council and House of Assembly of the said colony, and respecting the power of Colonial Legislatures to make laws for the above purpose; and it is expedient to remove such doubts:”

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In this Act of Parliament the term “Colonial Legislature” shall mean the authority (other than Her Majesty in Council) competent to make laws for any of Her Majesty's Possessions abroad, except *India*, the *Channel Islands*, and the *Isle of Man*:

Interpretation
of terms.

The term “Governor” shall mean the officer lawfully administering the Government of any colony.

2. All laws heretofore passed, or purporting to have been passed, by any Colonial Legislature with the object of declaring or altering the constitution of such Legislature, or of any branch thereof, or the mode of appointing or electing the members of the same, shall have, and be deemed to have had, from the date at which the same shall have received the assent of Her Majesty, or of the Governor of the colony on behalf of Her Majesty, the same force and effect for all purposes whatever as if the said Legislature had possessed full powers of enacting laws for the objects aforesaid, and as if all formalities and conditions, by Act of Parliament or otherwise prescribed in respect of the passing of such laws, had been duly observed.

Confirmation
of certain Acts
of Colonial
Legislature.

28 & 29 VICT., c. 63—1865.

An Act to remove doubts as to the validity of Colonial Laws.

“ WHEREAS doubts have been entertained respecting the validity of divers laws enacted, or purporting to have been enacted, by the Legislatures of certain of Her Majesty’s Colonies, and respecting the powers of such Legislatures; and it is expedient that such doubts should be removed :”

Be it hereby enacted by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :”

Interpretation
“ Colony.”

1. The term “ colony ” shall in this Act include all of Her Majesty’s Possessions abroad, in which there shall exist a legislature as hereinafter defined, except the *Channel Islands*, the *Isle of Man*, and such territories as may for the time being be vested in Her Majesty, under or by virtue of any Act of Parliament for the government of *India* :

“ Legislature.”
“ Colonial Legislature ”

The terms “ Legislature ” and “ Colonial Legislature ” shall severally signify the authority (other than the Imperial Parliament or Her Majesty in Council), competent to make laws for any colony :

“ Representative Legislature.”

The term “ Representative Legislature ” shall signify any Colonial Legislature which shall comprise a legislative body of which one-half are elected by the inhabitants of the colony :

“ Colonial Law.”

The term “ Colonial Law ” shall include laws made for any colony, either by such Legislature as aforesaid or by Her Majesty in Council :

An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any colony when it is made applicable to such colony by the express words or necessary intendment of any Act of Parliament :

“ Governor.”

The term “ Governor ” shall mean the officer lawfully administering the Government of any colony :

“ Letters Patent.”

The term “ Letters Patent ” shall mean letters patent under the great seal of the United Kingdom of *Great Britain* and *Ireland*.

2. Any colonial law, which is or shall be repugnant to the provisions of any Act of Parliament extending to the colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the colony the force or effect of such Act, shall be read subject to such Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

Colonial Law
when void for
repugnancy.

3. No colonial law shall be, or be deemed to have been, void or inoperative on the ground of repugnancy to the law of *England*, unless the same shall be repugnant to the provisions of some such Act of Parliament, order or regulation, as aforesaid.

Colonial Law
when not void
for repug-
nancy.

4. No colonial law, passed with the concurrence of or assented to by the Governor of any colony, or to be hereafter so passed or assented to, shall be, or be deemed to have been, void or inoperative by reason only of any instructions with reference to such law, or the subject thereof, which may have been given to such Governor, by or on behalf of Her Majesty, by any instrument other than the letters patent or instrument authorising such Governor to concur in passing or to assent to laws for the peace, order, and good government of such colony, even though such instructions may be referred to in such letters patent, or last mentioned instrument.

Colonial Law
when not void
for inconsis-
tency with in-
structions.

5. Every Colonial Legislature shall have, and be deemed at all times to have had, full power within its jurisdiction to establish courts of judicature, and to abolish and re-constitute the same, and to alter the constitution thereof, and to make provision for the administration of justice therein, and every Representative Legislature shall, in respect to the colony under its jurisdiction, have, and be deemed at all times to have had, full power to make laws respecting the constitution, powers, and procedure of such Legislature; provided that such laws shall have been passed in such manner and form as may from time to time be required, by any Act of Parliament, letters patent, Order in Council, or colonial law, for the time being in force in the colony.

Colonial Legis-
latures may
establish, &c.,
Courts of Law.

Representa-
tive Legisla-
ture may alter
Constitution.

6. The certificate of the clerk or other proper officer of a legislative body in any colony to the effect that the document to which it is attached is a true copy of any colonial law assented to by the Governor of such colony, or of any bill reserved for the signification of Her Majesty's pleasure by the said Governor, shall be *prima facie* evidence that the document so certified is a true copy of such law or bill, and as the case may be, that such law has been duly and properly passed and assented to, or that such bill has been duly and properly passed and presented to the Governor; and any proclamation, purporting to be published by authority of the Governor,

Certified co-
pies of the
laws to be evi-
dence that
they are pro-
perly passed.

Governor, in any newspaper in the colony to which such law or bill shall relate, and signifying Her Majesty's disallowance of any such colonial law, or Her Majesty's assent to any such reserved bill as aforesaid, shall be *primâ facie* evidence of such disallowance or assent.

(Section 7 merely rendered valid certain Acts of the Legislature of South Australia.)

28 & 29 VICT., c. 64—1865.

An Act to remove doubts respecting the validity of certain marriages contracted in Her Majesty's Possessions abroad.

“**W**HEREAS laws have from time to time been made by the Legislatures of divers of Her Majesty's Possessions abroad, for the purpose of establishing the “validity of certain marriages previously contracted therein, “but doubts are entertained whether such laws are in all “respects effectual for the aforesaid purpose beyond the limits “of such possessions :”

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Colonial laws establishing the validity of marriages to have effect throughout Her Majesty's Dominions.

1. Every law made or to be made by the Legislature of any such possession as aforesaid, for the purpose of establishing the validity of any marriage or marriages contracted in such possession, shall have, and be deemed to have had, from the date of the making of such law, the same force and effect for the purpose aforesaid within all parts of Her Majesty's Dominions as such law may have had, or may hereafter have, within the possession for which the same was made ; provided that nothing in this law contained shall give any effect or validity to any marriage unless at the time of such marriage both of the parties thereto were, according to the law of *England*, competent to contract the same.

Definition of Legislature.

2. In this Act the word “Legislature” shall include any authority competent to make laws for any of Her Majesty's possessions abroad, except the Parliament of the United Kingdom and Her Majesty in Council.

(See *B.N.A. Act, 1867, s. 92, ss. 12*; and see the *Provincial Acts relating to the solemnization of marriage*.)

28 & 29 VICT., c. 116—1865.

An Act to explain the Foreign Jurisdiction Act.

Be it declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this Parliament assembled, and by authority of the same, as follows :

1. In the Foreign Jurisdiction Act (that is to say, the Act of the session of the sixth and seventh years of Her Majesty's Reign, chapter ninety-four, to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's Dominions, and to render the same more effectual), the term "British Colony," includes, and shall be construed to include, any of Her Majesty's possessions out of the United Kingdom.

Meaning of
British Colony
in 6 & 7 V., c. 94.

2. This Act may be cited as the Foreign Jurisdiction Act Amendment Act, 1865.

Short Title.

29 & 30 VICT., c. 87—1866.

An Act to amend the Foreign Jurisdiction Act.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. It shall be lawful for Her Majesty in Council, from time to time, if and when it seems fit, by order in Council made under the Foreign Jurisdiction Acts, to assign to or confer on any court in any of Her Majesty's Possessions out of the United Kingdom any jurisdiction, civil or criminal, original or appellate, which Her Majesty in Council might lawfully by any such order assign to or confer on any court in any country or place out of Her Majesty's Dominions within which Her Majesty has power or jurisdiction, and from time to

Power for
Queen in Council
to assign
jurisdiction to
courts in British
Dominions
in cases within
Foreign Juris-
diction Acts.

to time by any such order to make such provisions and regulations as to Her Majesty in Council seem meet respecting the exercise of the jurisdiction so assigned or conferred, and respecting the enforcement and execution of the judgments, decrees, orders, or sentences of any such court, and respecting appeals therefrom; and every such order shall be effectual to vest in the court to which it relates the jurisdiction expressed to be thereby assigned or conferred, and the same shall be exercised subject and according to the regulations and provisions aforesaid.

Short Title
6 & 7 V., c. 94.

2. This Act may be cited as the "Foreign Jurisdiction Act Amendment Act, 1866," and the Act of the session of the sixth and seventh years of Her Majesty's Reign (chapter ninety-four) "to remove doubts as to the exercise of power "and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's Dominions and to render the same more effectual," may be cited as "The Foreign Jurisdiction Act, 1843," and that Act, and the Foreign Jurisdiction Act Amendment Act, 1865, and this Act, may be cited together and are in this Act referred to as the Foreign Jurisdiction Acts.

28 & 29 V.,
c. 116.

30 & 31 VICT., c. 3—1867.

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for purposes connected therewith.

WHEREAS the Provinces of *Canada*, *Nova Scotia*, and *New Brunswick*, have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of *Great Britain* and *Ireland*, with a Constitution similar in principle to that of the United Kingdom:

And whereas such a Union would conduce to the welfare of the Provinces and promote the interests of the *British* Empire:

And whereas on the establishment of the Union by authority of Parliament it is expedient, not only that the Constitution of the Legislative authority in the Dominion be provided for, but also that the nature of the Executive Government therein be declared:

And

And whereas it is expedient that provision be made for the eventual admission into the Union of other part of *British North America* :

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

I.—PRELIMINARY.

1. This Act may be cited as The British North America Short Title Act, 1867.

2. The provisions of this Act referring to Her Majesty the Queen extend also to the heirs and successors of Her Majesty, Kings and Queens of the United Kingdom of *Great Britain* and *Ireland*. Application of provisions referring to the Queen.

II.—UNION.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* shall form and be one Dominion under the name of *Canada* ; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly. Declaration of Union.

4. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect in the Queen's Proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name *Canada* shall be taken to mean *Canada* as constituted under this Act. Construction of subsequent provisions of Act.

5. *Canada* shall be divided into four Provinces, named *Ontario*, *Quebec*, *Nova Scotia*, and *New Brunswick*. Four Provinces.

6. The parts of the Province of *Canada* (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of *Upper Canada* and *Lower Canada* shall be deemed to be severed, and shall form two separate Provinces. The part which formerly constituted the Province of *Upper Canada* shall constitute the Province of *Ontario* ; and the part which formerly constituted the Province of *Lower Canada* shall constitute the Province of *Quebec*. Provinces of Ontario and Quebec.

Provinces of
Nova Scotia
and New
Brunswick.

7. The Provinces of *Nova Scotia* and *New Brunswick* shall have the same limits as at the passing of this Act.

Decennial
census.

8. In the general census of the population of *Canada* which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

III.—EXECUTIVE POWER.

Declaration of
executive
power in the
Queen.

9. The Executive Government and authority of and over *Canada* is hereby declared to continue and be vested in the Queen.

Application of
provisions re-
ferring to Gov-
ernor General.

10. The provisions of this Act referring to the Governor General extend and apply to the Governor General for the time being of *Canada*, or other the chief Executive Officer or Administrator for the time being carrying on the Government of *Canada* on behalf and in the name of the Queen, by whatever title he is designated.

Constitution of
Privy Council
for *Canada*.

11. There shall be a Council to aid and advise in the Government of *Canada*, to be styled the Queen's Privy Council for *Canada*; and the persons who are to be members of that Council shall be from time to time chosen and summoned by the Governor General and sworn in as Privy Counsellors, and members thereof may be from time to time removed by the Governor General.

All powers
under Acts to
be exercised
by Governor
General with
advice of Privy
Council or
alone.

12. All powers, authorities, and functions which under any Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of *Upper Canada*, *Lower Canada*, *Canada*, *Nova Scotia*, or *New Brunswick*, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of *Canada*, be vested in and exercisable by the Governor-General, with the advice, or with the advice and consent of, or in conjunction with the Queen's Privy Council for *Canada*, or any members thereof, or by the Governor-General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of *Great Britain* or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*) to be abolished or altered by the Parliament of *Canada*.

13. The provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor-General acting by and with the advice of the Queen's Privy Council for *Canada*. Application of provisions referring to Governor General in Council.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of *Canada*, and in that capacity to exercise during the pleasure of the Governor General such of the powers, authorities, and functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a deputy or deputies shall not affect the exercise by the Governor General himself of any power, authority, or function. Power to Her Majesty to authorize Governor General to appoint deputies.

15. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in *Canada*, is hereby declared to continue and be vested in the Queen. Command of armed forces to continue to be vested in the Queen.

16. Until the Queen otherwise directs the Seat of Government of *Canada* shall be *Ottawa*. Seat of Government of Canada.

IV.—LEGISLATIVE POWER.

17. There shall be one Parliament for *Canada*, consisting of the Queen, an Upper House styled the Senate, and the House of Commons. Constitution of Parliament of Canada.

18. This sec. is repealed by Imp. Act 38 & 39 V., c. 38, and the following sec. substituted therefor: Privileges, &c., of Houses.

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the members thereof respectively shall be such as are from time to time defined by Act of the Parliament of *Canada*, but so that any Act of the Parliament of *Canada* defining such privileges, immunities and powers, shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of *Great Britain* and *Ireland* and by the members thereof.

19. The Parliament of *Canada* shall be called together not later than six months after the Union. First Session of the Parliament of Canada.

20. There shall be a session of the Parliament of *Canada* once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session. Yearly Session of the Parliament of Canada.

The Senate.

Number of
Senators.

21. The Senate shall, subject to the provisions of this Act, consist of seventy-two members, who shall be styled Senators.

(*The Senate now includes representatives of the new Provinces of Manitoba, Prince Edward Island, and British Columbia.*)

Representa-
tion of Pro-
vinces in
Senate.

22. In relation to the constitution of the Senate, *Canada* shall be deemed to consist of three divisions—

1. *Ontario* ;

2. *Quebec* ;

3. The Maritime Provinces, *Nova Scotia* and *New Brunswick* ; which three divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows : *Ontario* by twenty-four Senators ; *Quebec* by twenty-four Senators ; and the Maritime Provinces by twenty-four Senators, twelve thereof representing *Nova Scotia*, and twelve thereof representing *New Brunswick*.

In the case of *Quebec* each of the twenty-four Senators representing that Province shall be appointed for one of the twenty-four electoral divisions of *Lower Canada* specified in Schedule A. to chapter one of the Consolidated Statutes of *Canada*.

Qualifications
of Senator.

23. The qualification of a Senator shall be as follows :—

- (1.) He shall be of the full age of thirty years :
- (2.) He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalized by an Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of one of the Provinces of *Upper Canada*, *Lower Canada*, *Canada*, *Nova Scotia*, or *New Brunswick*, before the Union, or of the Parliament of *Canada* after the Union :
- (3.) He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised and possessed for his own use and benefit of lands or tenements held in franc-alieu or in rotture, within the Province for which he is appointed, of the value of four thousand dollars. over and above all rents, dues, debts, charges, mort-
gages,

gages, and incumbrances due or payable out of or charged on or affecting the same :

- (4.) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities :
- (5.) He shall be resident in the Province for which he is appointed :
- (6.) In the case of *Quebec* he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

24. The Governor General shall from time to time, in the Queen's name, by instrument under the Great Seal of *Canada*, summon qualified persons to the Senate; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a Senator. Summons of Senator.

25. Such persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their names shall be inserted in the Queen's Proclamation of Union. Summons of first body of Senators.

26. If at any time, on the recommendation of the Governor General, the Queen thinks fit to direct that three or six members be added to the Senate, the Governor General may by summons to three or six qualified persons (as the case may be), representing equally the three divisions of *Canada*, add to the Senate accordingly. Addition of Senators in certain cases.

27. In case of such addition being at any time made the Governor-General shall not summon any person to the Senate, except on a further like direction by the Queen on the like recommendation, until each of the three divisions of *Canada* is represented by twenty-four Senators and no more. Reduction of Senate to normal number.

28. The number of Senators shall not at any time exceed seventy-eight. Maximum number of Senators.

29. A Senator shall, subject to the provisions of this Act, hold his place in the Senate for life. Tenure of place in Senate.

30. A Senator may by writing under his hand addressed to the Governor-General resign his place in the Senate, and thereupon the same shall be vacant. Resignation of place in Senate.

31. The place of a Senator shall become vacant in any of the following cases :— Disqualification of Senators.

- (1.) If for two consecutive sessions of the Parliament he fails to give his attendance in the Senate :

(2.)

- (2.) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power :
- (3.) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter :
- (4.) If he is attainted of treason or convicted of felony or of any infamous crime :
- (5.) If he ceases to be qualified in respect of property or of residence ; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the Seat of the Government of *Canada* while holding an office under that Government requiring his presence there.

Summons on
vacancy in
Senate.

32. When a vacancy happens in the Senate by resignation, death, or otherwise, the Governor General shall by summons to a fit and qualified person fill the vacancy.

Questions as to
qualifications
and vacancies
in Senate.

33. If any question arises respecting the qualification of a Senator or a vacancy in the Senate the same shall be heard and determined by the Senate.

Appointment
of Speaker of
Senate.

34. The Governor General may from time to time, by instrument under the Great Seal of *Canada*, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

Quorum of
Senate.

35. Until the Parliament of *Canada* otherwise provides, the presence of at least fifteen Senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in
Senate.

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

The House of Commons.

Constitution
of House of
Commons in
Canada.

37. The House of Commons shall, subject to the provisions of this Act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for *Ontario*, sixty-five for *Quebec*, nineteen for *Nova Scotia*, and fifteen for *New Brunswick*.

(The number of members was increased to two hundred by Dom. Act, 35 Vict., c. 13, and the number is now two hundred and

and six, the new Province of Manitoba having four members, and British Columbia and Prince Edward Island six members each, while by Dom. Act, 35 Vict., c. 13, the representation of Ontario was increased to eighty-eight members, of Nova Scotia to twenty-one, and of New Brunswick to sixteen.)

38. The Governor-General shall from time to time, in the Queen's name, by instrument under the Great Seal of *Canada*, summon and call together the House of Commons.

Summoning of
Houses of
Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a member of the House of Commons.

Senators not to
sit in House of
Commons.

40. Until the Parliament of *Canada* otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick, shall, for the purposes of the election of members to serve in the House of Commons, be divided into electoral districts as follows:—

Electoral dis-
tricts of the
four Provinces.

1.—ONTARIO.

Ontario shall be divided into the counties, ridings of counties, cities, parts of cities, and towns, enumerated in the first schedule to this Act, each whereof shall be an electoral district, each such district as numbered in that schedule being entitled to return one member.

(See Dom. Act, 35 Vict., c. 13.)

2.—QUEBEC.

Quebec shall be divided into sixty-five electoral districts, composed of the sixty-five electoral divisions into which *Lower Canada* is at the passing of this Act divided, under chapter two of the Consolidated Statutes of *Canada*, chapter seventy-five of the Consolidated Statutes for *Lower Canada*, and the Act of the Province of *Canada* of the twenty-third year of the Queen, chapter one, or any other Act amending the same in force at the Union, so that each such electoral division shall be for the purposes of this Act an electoral district entitled to return one member.

(See Dom. Act, 35 Vict., c. 13.)

3.—NOVA SCOTIA.

Each of the eighteen counties of *Nova Scotia* shall be an electoral district. The County of Halifax shall be entitled to return two members, and each of the other counties one member.

(See Dom. Act, 35 Vict., c. 13.)

4.—NEW BRUNSWICK.

Each of the fourteen counties into which *New Brunswick* is divided, including the city and County of *St. John*, shall be an electoral district; the city of *St. John* shall also be a separate electoral district. Each of these fifteen electoral districts shall be entitled to return one member.

(See *Dom. Act*, 35 *Vict.*, c. 13.)

Continuance
of existing
Election Laws
until Parlia-
ment of Can-
ada otherwise
provides.

41. Until the Parliament of *Canada* otherwise provides, all laws in force in the several Provinces at the Union relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of *Canada* otherwise provides, at any election for a member for the House of Commons for the District of *Algoma*, in addition to persons qualified by the law of the Province of *Canada* to vote, every male *British* subject, aged twenty-one years or upwards, being a householder, shall have a vote.

Writs for first
election.

42. For the first election of members to serve in the House of Commons the Governor General shall cause writs to be issued by such person, in such form, and addressed to such returning officers as he thinks fit.

The person issuing writs under this section shall have the like powers as are possessed at the Union by the officers charged with the issuing of writs for the election of members to serve in the respective House of Assembly or Legislative Assembly of the Province of *Canada*, *Nova Scotia*, or *New Brunswick*; and the returning officers to whom writs are directed under this section shall have the like powers as are possessed at the Union by the officers charged with the returning of writs for the election of members to serve in the same respective House of Assembly or Legislative Assembly.

As to casual
vacancies.

43. In case a vacancy in the representation in the House of Commons of any electoral district happens before the meeting of the Parliament, or after the meeting of the Par-
liament

liament before provision is made by the Parliament in this behalf, the provisions of the last foregoing section of this Act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

44. The House of Commons on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker. As to Election of Speaker of House of Commons.

45. In case of a vacancy happening in the office of Speaker by death, resignation, or otherwise, the House of Commons shall with all practicable speed proceed to elect another of its members to be Speaker. As to filling up vacancy in office of Speaker.

46. The Speaker shall preside at all meetings of the House of Commons. Speaker to preside.

47. Until the Parliament of *Canada* otherwise provides, in case of the absence for any reason of the Speaker from the chair of the House of Commons for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall, during the continuance of such absence of the Speaker, have and execute all the powers, privileges, and duties of Speaker. Provision in case of absence of Speaker.

48. The presence of at least twenty members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a member. Quorum of House of Commons.

49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote. Voting in House of Commons.

50. Every House of Commons shall continue for five years from the day of the return of the writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer. Duration of House of Commons.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four Provinces shall be re-adjusted by such authority, in such manner, and from such time, as the Parliament of *Canada* from time to time provides, subject and according to the following rules:— Decennial Re-adjustment of Representation.

(1.) *Quebec* shall have the fixed number of sixty-five members:

(2.)

- (2.) There shall be assigned to each of the other Provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of *Quebec* (so ascertained) :
- (3.) In the computation of the number of members for a Province a fractional part not exceeding one half of the whole number requisite for entitling the Province to a member shall be disregarded ; but a fractional part exceeding one half of that number shall be equivalent to the whole number :
- (4.) On any such re-adjustment the number of members for a Province shall not be reduced unless the proportion which the number of the population of the Province bore to the number of the aggregate population of *Canada* at the then last preceding re-adjustment of the number of members for the Province is ascertained at the then latest census to be diminished by one twentieth part or upwards :
- (5.) Such re-adjustment shall not take effect until the termination of the then existing Parliament.

(Such a re-adjustment was made by Dom. Act, 35 Vict., c. 13, after the census of 1871.)

Increase of
number of
House of Com-
mons.

52. The number of members of the House of Commons may be from time to time increased by the Parliament of *Canada*, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes; Royal Assent.

Appropriation
and tax bills.

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

Recommendation of money
votes.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor General in the session in which such vote, resolution, address, or bill is proposed.

Royal assent
to bills, &c

55. Where a bill passed by the Houses of Parliament is presented to the Governor General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either

either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the bill for the signification of the Queen's pleasure.

56. Where the Governor General assents to a bill in the Queen's name, he shall by the first convenient opportunity send an authentic copy of the Act to one of Her Majesty's principal Secretaries of State, and if the Queen in Council within two years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State on which the Act was received by him) being signified by the Governor General, by speech or message to each of the Houses of the Parliament or by proclamation, shall annul the Act from and after the day of such signification.

Disallowance
by Order in
Council of Act
assented to by
Governor
General.

57. A bill reserved for the signification of the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor General for the Queen's assent, the Governor General signifies, by speech or message to each of the Houses of the Parliament or by proclamation, that it has received the assent of the Queen in Council.

Signification
of Queen's
pleasure on
bill reserved.

An entry of every such speech, message, or proclamation, shall be made in the journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of *Canada*.

V.—PROVINCIAL CONSTITUTIONS.

Executive Power.

58. For each Province there shall be an officer, styled the Lieutenant Governor, appointed by the Governor General in Council by instrument under the Great Seal of *Canada*.

Appointment
of Lieutenant
Governors of
Provinces.

59. A Lieutenant Governor shall hold office during the pleasure of the Governor General; but any Lieutenant Governor appointed after the commencement of the first session of the Parliament of *Canada* shall not be removeable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and, if not, then within one week after the commencement of the next session of the Parliament.

Tenure of
office of Lieuten-
ant Gov-
ernor.

60. The salaries of the Lieutenant Governor shall be fixed and provided by the Parliament of *Canada*.

Salaries of
Lieutenant
Governors.

Oaths, &c., of
Lieutenant
Governor.

61. Every Lieutenant Governor shall, before assuming the duties of his office, make and subscribe before the Governor General or some person authorized by him, oaths of allegiance and office similar to those taken by the Governor General.

Application of
provisions re-
ferring to
Lieutenant
Governor.

62. The provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the time being of each Province or other the chief executive officer or administrator for the time being carrying on the Government of the Province, by whatever title he is designated.

Appointment
of Executive
officers for
Ontario and
Quebec.

63. The Executive Council of *Ontario* and of *Quebec* shall be composed of such persons as the Lieutenant Governor from time to time thinks fit, and in the first instance of the following officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in *Quebec*, the Speaker of the Legislative Council and the Solicitor General.

Executive Go-
vernment of
Nova Scotia
and *New*
Brunswick.

64. The Constitution of the executive authority in each of the Provinces of *Nova Scotia* and *New Brunswick* shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act.

Powers to be
exercised by
Lieutenant
Governor of
Ontario or
Quebec with
advice or
alone.

65. All powers, authorities, and functions which under Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of *Upper Canada*, *Lower Canada*, or *Canada*, were or are before or at the union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the union in relation to the Government of *Ontario* and *Quebec* respectively, be vested in and shall or may be exercised by the Lieutenant Governor of *Ontario* and *Quebec* respectively, with the advice, or with the advice and consent of, or in conjunction with the respective Executive Councils, or any members thereof, or by the Lieutensnt Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*), to be abolished or altered by the respective Legislatures of *Ontario* and *Quebec*.

66. The provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the advice of the Executive Council thereof.

Application of provisions referring to Lieutenant Governor in Council.

67. The Governor General in Council may from time to time appoint an administrator to execute the office and functions of Lieutenant Governor during his absence, illness, or other inability.

Administration in absence, &c., of Lieutenant Governor.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of *Ontario*, the city of *Toronto*; of *Quebec*, the city of *Quebec*; of *Nova Scotia*, the city of *Halifax*; and of *New Brunswick*, the city of *Fredericton*.

Seats of Provincial Governments.

Legislative Power.

1.—ONTARIO.

69. There shall be a Legislature for *Ontario* consisting of the Lieutenant Governor and of one House, styled the Legislative Assembly of *Ontario*.

Legislature for Ontario.

70. The Legislative Assembly of *Ontario* shall be composed of eighty-two members, to be elected to represent the eighty-two electoral districts set forth in the first schedule to this Act.

Electoral districts.

(The number of members has been increased to eighty-eight by Ontario Act, 38 Vict., c. 2.)

2.—QUEBEC.

71. There shall be a Legislature for *Quebec* consisting of the Lieutenant Governor and of two Houses, styled the Legislative Council of *Quebec* and the Legislative Assembly of *Quebec*.

Legislature for Quebec.

72. The Legislative Council of *Quebec* shall be composed of twenty-four members, to be appointed by the Lieutenant Governor in the Queen's name, by instrument under the Great Seal of *Quebec*, one being appointed to represent each of the twenty-four electoral divisions of *Lower Canada* in this Act referred to, and each holding office for the term of his life, unless the Legislature of *Quebec* otherwise provides under the provisions of this Act.

Constitution of Legislative Council.

73. The qualifications of the Legislative Councillors of *Quebec* shall be the same as those of the Senators of *Quebec*.

Qualification of Legislative Councillors.

Resignation,
disqualifica-
tion, &c.

74. The place of a Legislative Councillor of *Quebec* shall become vacant in the cases, *mutatis mutandis*, in which the place of Senator becomes vacant.

Vacancies.

75. When a vacancy happens in the Legislative Council of *Quebec* by resignation, death, or otherwise, the Lieutenant Governor, in the Queen's name, by instrument under the Great Seal of *Quebec*, shall appoint a fit and qualified person to fill the vacancy.

Questions as to
vacancies, &c.

76. If any question arises respecting the qualification of a Legislative Councillor of *Quebec*, or a vacancy in the Legislative Council of *Quebec*, the same shall be heard and determined by the Legislative Council.

Speaker of
Legislative
Council.

77. The Lieutenant Governor may from time to time, by instrument under the Great Seal of *Quebec*, appoint a member of the Legislative Council of *Quebec* to be Speaker thereof, and may remove him and appoint another in his stead.

Quorum of
Legislative
Council.

78. Until the Legislature of *Quebec* otherwise provides, the presence of at least ten members of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Voting in
Legislative
Council.

79. Questions arising in the Legislative Council of *Quebec* shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Constitution
of Legislative
Assembly of
Quebec.

80. The Legislative Assembly of *Quebec* shall be composed of sixty-five members, to be elected to represent the sixty-five electoral divisions or districts of *Lower Canada* in this Act referred to, subject to alteration thereof by the Legislature of *Quebec*: Provided that it shall not be lawful to present to the Lieutenant Governor of *Quebec* for assent any bill for altering the limits of any of the electoral divisions or districts mentioned in the second schedule to this Act, unless the second and third readings of such bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent shall not be given to such bill unless an address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed.

3.—ONTARIO AND QUEBEC.

First Session
of Legisla-
tures.

81. The Legislatures of *Ontario* and *Quebec* respectively shall be called together not later than six months after the union.

82. The Lieutenant Governor of *Ontario* and of *Quebec* shall from time to time, in the Queen's name, by instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

Summoning of
Legislative
Assemblies.

83. Until the Legislature of *Ontario* or of *Quebec* otherwise provides, a person accepting or holding in *Ontario* or in *Quebec* any office, commission, or employment permanent or temporary, at the nomination of the Lieutenant Governor, to which an annual salary, or any fee, allowance, emolument, or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in *Quebec* Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office.

Restriction
on election of
holders of
offices.

(*Ont. Acts 32 V., c. 4, and 35 V., c. 5, were passed with the view of further securing the independence of the Legislative Assembly.*)

84. Until the Legislatures of *Ontario* and *Quebec* respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following matters, or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the Assembly of *Canada*, the qualifications or disqualifications of voters, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections, may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution, shall respectively apply to election of members to serve in the respective Legislative Assemblies of *Ontario* and *Quebec*.

Continuance
of existing
election laws.

Provided that until the Legislature of *Ontario* otherwise provides, at any election for a member of the Legislative Assembly of *Ontario* for the District of *Algoma*, in addition to persons qualified by the Law of the Province of *Canada* to vote, every male *British* subject, aged twenty-one years or upwards, being a householder, shall have a vote.

(*See Provincial Acts respecting Elections.*)

Duration of
Legislative
Assemblies.

85. Every Legislative Assembly of *Ontario* and every Legislative Assembly of *Quebec* shall continue for four years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of *Ontario* or the Legislative Assembly of *Quebec* being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

Yearly Session
of Legislature.

86. There shall be a session of the Legislature of *Ontario* and of that of *Quebec* once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in each Province in one Session and its first sitting in the next session.

Speaker,
Quorum, &c.

87. The following provisions of this Act respecting the House of Commons of *Canada* shall extend and apply to the Legislative Assemblies of *Ontario* and *Quebec*, that is to say,—the provisions relating to the election of a Speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

4.—NOVA SCOTIA AND NEW BRUNSWICK.

Constitutions
of Legislatures
of Nova Scotia
and New
Brunswick.

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act; and the House of Assembly of *New Brunswick* existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

First elections.

89. Each of the Lieutenant Governors of *Ontario*, *Quebec*, and *Nova Scotia*, shall cause writs to be issued for the first election of members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such returning officer as the Governor General directs, and so that the first election of member of Assembly for any electoral district or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the House of Commons of *Canada* for that electoral district.

6.—THE FOUR PROVINCES.

Application to
Legislatures of
provisions re-
specting money
votes, &c.

90. The following provisions of this Act respecting the Parliament of *Canada*, namely,—the provisions relating to appropriation and tax bills, the recommendation of money votes,

votes, the assent to bills, the disallowance of Acts, and the signification of pleasure on bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of one year for two years, and of the Province for *Canada*.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of *Canada*, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative authority of the Parliament of *Canada* extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

Legislative
authority of
Parliament of
Canada.

1. The public debt and property.
2. The regulation of trade and commerce.
3. The raising of money by any mode or system of taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. The census and statistics.
7. Militia, military and naval service, and defence.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of *Canada*.
9. Beacons, buoys, lighthouses, and Sable Island.
10. Navigation and shipping.
11. Quarantine and the establishment and maintenance of marine hospitals.

12. Sea Coast and inland fisheries.
13. Ferries between a Province and any *British* or foreign country or between two Provinces.
14. Currency and coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings banks.
17. Weights and measures.
18. Bills of exchange and promissory notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and insolvency.
22. Patents of invention and discovery.
23. Copyrights.
24. Indians, and lands reserved for the Indians.
25. Naturalization and aliens.
26. Marriage and divorce.
27. The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.
28. The establishment, maintenance, and management of penitentiaries.
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

Subjects of
exclusive Pro-
vincial Legis-
lation.

1. The amendment from time to time, notwithstanding anything in this Act, of the constitution of the Province, except as regards the office of Lieutenant Governor.
2. Direct taxation within the Province in order to the raising of a revenue for Provincial purposes.
3. The borrowing of money on the sole credit of the Province.
4. The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.
5. The management and sale of the public lands belonging to the Province and of the timber and wood thereon.
6. The establishment, maintenance, and management of public and reformatory prisons in and for the Province.
7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province, other than marine hospitals.
8. Municipal institutions in the Province.
9. Shop, saloon, tavern, auctioneer, and other licenses in order to the raising of a revenue for Provincial, local, or municipal purposes.
10. Local works and undertakings other than such as are of the following classes :—
 - a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province :
 - b. Lines of steam ships between the Province and any *British* or foreign country :

c.

c. Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of *Canada* to be for the general advantage of *Canada* or for the advantage of two or more of the Provinces.

11. The incorporation of companies with Provincial objects.
12. The solemnization of marriage in the Province.
13. Property and civil rights in the Province.
14. The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts.
15. The imposition of punishment by fine, penalty, or imprisonment, for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
16. Generally all matters of a merely local or private nature in the Province.

Education.

*Legislation
respecting
education.

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions :

- (1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the union :
- (2.) All the powers, privileges, and duties at the union by law conferred and imposed in *Upper Canada* on the separate schools and school trustees of the Queen's Roman catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's protestant and Roman catholic subjects in *Quebec* :
- (3.) Where in any Province a system of separate or dissentient schools exists by law at the union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor General in Council from any Act or decision of any Provincial authority affecting any right

right or privilege of the protestant or Roman catholic minority of the Queen's subjects in relation to education :

- (4.) In case any such Provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of *Canada* may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of *Canada* may make provision for the uniformity of all or any of the laws relative to property and civil rights in *Ontario, Nova Scotia, and New Brunswick*, and of the procedure of all or any of the courts in those three Provinces, and from and after the passing of any Act in that behalf the power of the Parliament of *Canada* to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted ; but any Act of the Parliament of *Canada* making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

Legislation for uniformity of laws in three Provinces.

Agriculture and Immigration.

95. In each Province the Legislature may make laws in relation to agriculture in the Province, and to immigration into the Province ; and it is hereby declared that the Parliament of *Canada* may from time to time make laws in relation to agriculture in all or any of the Provinces, and to immigration into all or any of the Provinces ; and any law of the Legislature of a Province relative to agriculture or to immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of *Canada*.

Concurrent powers of Legislature respecting Agriculture, &c.

VII.—JUDICATURE.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in *Nova Scotia* and *New Brunswick*.

Appointment of Judges.

Selection of
Judges in
Ontario, &c.

97. Until the laws relative to property and civil rights in *Ontario*, *Nova Scotia*, and *New Brunswick*, and the procedure of the courts in those Provinces, are made uniform, the Judges of the courts of those Provinces appointed by the Governor General shall be selected from the respective bars of those Provinces.

Selection of
Judges in
Quebec.

98. The Judges of the courts of *Quebec* shall be selected from the bar of that Province.

Tenure of
office of Judges
of Superior
Courts.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Salaries, &c.,
of Judges.

100. The salaries, allowances, and pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in *Nova Scotia* and *New Brunswick*,) and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of *Canada*.

General court
of appeal, &c.;

101. The Parliament of *Canada* may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organization of a General Court of Appeal for *Canada*, and for the establishment of any additional courts for the better administration of the laws of *Canada*.

VIII.—REVENUES ; DEBTS ; ASSETS ; TAXATION.

Creation of
consolidated
revenue fund.

102. All duties and revenues over which the respective Legislatures of *Canada*, *Nova Scotia*, and *New Brunswick* before and at the union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one consolidated revenue fund, to be appropriated for the public service of *Canada* in the manner and subject to the charges in this Act provided.

Expenses of
collection, &c.

103. The consolidated revenue fund of *Canada* shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of Pro-
vincial public
debts.

104. The annual interest of the public debts of the several Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* at the union shall form the second charge on the consolidated revenue fund of *Canada*.

105. Unless altered by the Parliament of *Canada*, the salary of the Governor General shall be ten thousand pounds sterling money of the United Kingdom of *Great Britain* and *Ireland*, payable out of the consolidated revenue fund of *Canada*, and the same shall form the third charge thereon.

Salary of Governor General.

106. Subject to the several payments by this Act charged on the consolidated revenue fund of *Canada*, the same shall be appropriated by the Parliament of *Canada* for the public service.

Appropriation from time to time.

107. All stocks, cash, banker's balances, and securities for money belonging to each Province at the time of the union, except as in this Act mentioned, shall be the property of *Canada*, and shall be taken in reduction of the amount of the respective debts of the Provinces at the union.

Transfer of stocks, &c.

108. The public works and property of each Province, enumerated in the third schedule to this Act, shall be the property of *Canada*.

Transfer of property in schedule.

109. All lands, mines, minerals, and royalties belonging to the several Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* at the union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of *Ontario*, *Quebec*, *Nova Scotia*, and *New Brunswick*, in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.

Property in lands, mines, &c.

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province.

Assets connected with Provincial debts.

111. *Canada* shall be liable for the debts and liabilities of each Province existing at the union.

Canada to be liable for Provincial debts.

112. *Ontario* and *Quebec* conjointly shall be liable to *Canada* for the amount (if any) by which the debt of the Province of *Canada* exceeds at the union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five *per centum per annum* thereon.

Debts of *Ontario* and *Quebec*.

113. The assets enumerated in the fourth schedule to this Act belonging at the union to the Province of *Canada* shall be the property of *Ontario* and *Quebec* conjointly.

Assets of *Ontario* and *Quebec*.

114. *Nova Scotia* shall be liable to *Canada* for the amount (if any) by which its public debt exceeds at the union eight million dollars, and shall be charged with interest at the rate of five *per centum per annum* thereon.

Debt of *Nova Scotia*.

Debt of New
Brunswick.

115. *New Brunswick* shall be liable to *Canada* for the amount (if any) by which its public debt exceeds at the union seven million dollars, and shall be charged with interest at the rate of five *per centum per annum* thereon.

Payment of
interest to
Nova Scotia
and *New*
Brunswick.

116. In case the public debts of *Nova Scotia* and *New Brunswick* do not at the Union amount to eight million and seven million dollars respectively, they shall respectively receive by half-yearly payments in advance from the Government of *Canada* interest at five *per centum per annum* on the difference between the actual amounts of their respective debts and such stipulated amounts.

Provincial
public pro-
perty.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of *Canada* to assume any lands or public property required for fortifications or for the defence of the country.

Grants to
Provinces.

118. The following sums shall be paid yearly by *Canada* to the several Provinces for the support of their Governments and Legislatures :

	Dollars.
Ontario - - - - -	Eighty thousand.
Quebec - - - - -	Seventy thousand.
Nova Scotia - - - - -	Sixty thousand.
New Brunswick - - - - -	Fifty thousand.

Two hundred and sixty thousand ;
and an annual grant in aid of each Province shall be made, equal to eighty cents *per head* of the population as ascertained by the census of one thousand eight hundred and sixty-one, and in the case of *Nova Scotia* and *New Brunswick*, by each subsequent decennial census until the population of each of those two Provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grant shall be in full settlement of all future demands on *Canada*, and shall be paid half-yearly in advance to each Province ; but the Government of *Canada* shall deduct from such grants, as against any Province, all sums chargeable as interest on the public debt of that Province in excess of the several amounts stipulated in this Act.

Further grant
to *New Brun-*
wick.

119. *New Brunswick* shall receive by half-yearly payments in advance from *Canada* for the period of ten years from the union an additional allowance of sixty-three thousand dollars *per annum* ; but as long as the public debt of that Province remains under seven million dollars, a deduction equal to the interest at five *per centum per annum* on such deficiency shall be made from that allowance of sixty-three thousand dollars.

120. All payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* respectively, and assumed by *Canada*, shall, until the Parliament of *Canada* otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor General in Council.

Form of payments.

121. All articles of the growth, produce, or manufacture, of any one of the Provinces shall, from and after the union, be admitted free into each of the other Provinces.

Canadian manufactures, &c.

122. The customs and excise laws of each Province shall, subject to the provisions of this Act, continue in force until altered by the Parliament of *Canada*.

Continuance of customs and excise laws.

123. Where customs duties are, at the union, leviable on any goods, wares, or merchandises in any two Provinces, those goods, wares, and merchandises may, from and after the union, be imported from one of those Provinces into the other of them on proof of payment of the customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the Province of importation.

Exportation and importation as between two Provinces.

124. Nothing in this Act shall affect the right of *New Brunswick* to levy the lumber dues provided in chapter fifteen of title three of the revised statutes of *New Brunswick*, or in any Act amending that Act before or after the union, and not increasing the amount of such dues; but the lumber of any of the Provinces other than *New Brunswick* shall not be subject to such dues.

Lumber dues in *New Brunswick*.

125. No lands or property belonging to *Canada* or any Province shall be liable to taxation.

Exemption of public lands, &c.

126. Such portions of the duties and revenues over which the respective Legislatures of *Canada*, *Nova Scotia*, and *New Brunswick* had before the union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this Act, shall in each Province form one consolidated revenue fund to be appropriated for the public service of the Province.

Provincial consolidated revenue fund.

IX.—MISCELLANEOUS PROVISIONS.

General.

127. If any person being at the passing of this Act a member of the Legislative Council of *Canada*, *Nova Scotia*,

As to Legislative councillors of Provinces becoming senators.

or *New Brunswick*, to whom a place in the Senate is offered, does not within thirty days thereafter, by writing under his hand addressed to the Governor General of the Province of *Canada* or to the Lieutenant Governor of *Nova Scotia* or *New Brunswick* (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a member of the Legislative Council of *Nova Scotia* or *New Brunswick*, accepts a place in the Senate shall thereby vacate his seat in such Legislative Council.

Oath of allegiance, &c.

128. Every member of the Senate or House of Commons of *Canada* shall, before taking his seat therein, take and subscribe before the Governor General or some person authorized by him, and every member of a Legislative Council or Legislative Assembly of any Province shall before taking his seat therein take and subscribe before the Lieutenant Governor of the Province or some person authorized by him, the oath of allegiance contained in the fifth schedule to this Act; and every member of the Senate of *Canada* and every member of the Legislative Council of *Quebec* shall also, before taking his seat therein, take and subscribe before the Governor General, or some person authorized by him, the declaration of qualification contained in the same schedule.

Continuance of existing laws, courts, officers, &c.

129. Except as otherwise provided by this Act, all laws in force in *Canada*, *Nova Scotia*, or *New Brunswick*, at the union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers, and authorities, and all officers, judicial, administrative, and ministerial, existing therein at the union, shall continue in *Ontario*, *Quebec*, *Nova Scotia*, and *New Brunswick* respectively, as if the union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of *Great Britain* or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*,) to be repealed, abolished, or altered by the Parliament of *Canada*, or by the Legislature of the respective Province, according to the authority of the Parliament of that Legislature under this Act.

Transfer of officers to *Canada*.

130. Until the Parliament of *Canada* otherwise provides, the officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of *Canada*, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities, and penalties as if the union had not been made.

Appointment of new officers.

131. Until the Parliament of *Canada* otherwise provides, the Governor General in Council may from time to time appoint

appoint such officers as the Governor General in Council deems necessary or proper for the effectual execution of this Act.

132. The Parliament and Government of *Canada* shall have all powers necessary or proper for performing the obligations of *Canada* or of any Province thereof, as part of the *British Empire*, towards foreign countries, arising under treaties between the Empire and such foreign countries. Treaty obligations.

133. Either the *English* or the *French* language may be used by any person in the debates of the Houses of the Parliament of *Canada* and of the Houses of the Legislature of *Quebec*; and both those languages shall be used in the respective records and journals of those Houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any court of *Canada* established under this Act, and in or from all or any of the courts of *Quebec*. Use of English and French languages.

The Acts of the Parliament of *Canada* and of the Legislature of *Quebec* shall be printed and published in both those languages.

Ontario and Quebec.

134. Until the Legislature of *Ontario* or of *Quebec* otherwise provides, the Lieutenant Governors of *Ontario* and *Quebec* may each appoint under the great seal of the Province the following officers, to hold office during pleasure, that is to say, —the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the case of *Quebec* the Solicitor General, and may, by order of the Lieutenant Governor in Council, from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof. Appointment of executive officers for Ontario and Quebec.

135. Until the Legislature of *Ontario* or *Quebec* otherwise provides, all rights, powers, duties, functions, responsibilities, or authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of *Canada*, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any law, statute or ordinance of *Upper Canada*, *Lower Canada*, Powers, duties, &c., of executive officers.

or *Canada*, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant Governor for the discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the duties and functions of the office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of *Canada*, as well as those of the Commissioner of Public Works.

Great seals.

136. Until altered by the Lieutenant Governor in Council, the Great Seals of *Ontario* and *Quebec* respectively shall be the same, or of the same design, as those used in the Provinces of *Upper Canada* and *Lower Canada* respectively before their union as the Province of *Canada*.

Construction of temporary Acts.

137. The words "and from thence to the end of the then next "ensuing session of the Legislature," or words to the same effect, used in any temporary Act of the Province of *Canada* not expired before the union, shall be construed to extend and apply to the next session of the Parliament of *Canada*, if the subject matter of the Act is within the powers of the same, as defined by this Act, or to the next sessions of the Legislatures of *Ontario* and *Quebec* respectively, if the subject matter of the Act is within the powers of the same as defined by this Act.

As to errors in names.

138. From and after the union the use of the words "*Upper Canada*" instead of "*Ontario*," or "*Lower Canada*" instead of "*Quebec*," in any deed, writ, process, pleading, document, matter, or thing, shall not invalidate the same.

As to issue of proclamations before Union, to commence after Union.

139. Any proclamation under the Great Seal of the Province of *Canada* issued before the union to take effect at a time which is subsequent to the union, whether relating to that Province, or to *Upper Canada*, or to *Lower Canada*, and the several matters and things therein proclaimed shall be and continue of like force and effect as if the union had not been made.

As to issue of proclamations after Union.

140. Any proclamation which is authorized by any Act of the Legislature of the Province of *Canada*, to be issued under the Great Seal of the Province of *Canada*, whether relating to that Province, or to *Upper Canada*, or to *Lower Canada*, and which is not issued before the union, may be issued by the Lieutenant Governor of *Ontario* or of *Quebec*, as its subject matter requires, under the Great Seal thereof; and from and after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in *Ontario* or *Quebec* as if the union had not been made.

Penitentiary

141. The Penitentiary of the Province of *Canada* shall, until the Parliament of *Canada* otherwise provides, be and continue the Penitentiary of *Ontario* and of *Quebec*.

142. The division and adjustment of the debts, credits, liabilities, properties, and assets of *Upper Canada* and *Lower Canada* shall be referred to the arbitrament of three arbitrators, one chosen by the Government of *Ontario*, one by the Government of *Quebec*, and one by the Government of *Canada*; and the selection of the arbitrators shall not be made until the Parliament of *Canada* and the Legislatures of *Ontario* and *Quebec* have met; and the arbitrator chosen by the Government of *Canada* shall not be a resident either in *Ontario* or in *Quebec*. Arbitration respecting debts, &c.

143. The Governor General in Council may from time to time order that such and so many of the records, books, and documents of *Canada* as he thinks fit shall be appropriated and delivered either to *Ontario* or to *Quebec*, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence. Division of records.

144. The Lieutenant Governor of *Quebec* may from time to time, by proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute townships in those parts of the Province of *Quebec* in which townships are not then already constituted, and fix the metes and bounds thereof. Constitution of townships in Quebec.

X.—INTERCOLONIAL RAILWAY.

145. Inasmuch as the Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the union of *British North America*, and to the assent thereto of *Nova Scotia* and *New Brunswick*, and have consequently agreed that provision should be made for its immediate construction by the Government of *Canada*: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of *Canada* to provide for the commencement within six months after the union, of a railway connecting the River St. Lawrence with city of *Halifax* in *Nova Scotia*, and for the construction thereof without intermission, and the completion thereof with all practicable speed. Duty of Government and Parliament of Canada to make railway herein described.

XI.—ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on addresses from the Houses of Parliament of *Canada*, and from the Houses of the Parliament of *Canada*, and from the Houses of the respective Legislatures of the Colonies or Provinces of *Newfoundland*, *Prince Edward Island*, and *British Columbia*, Power to admit Newfoundland, &c., into the Union.

Columbia, to admit those Colonies or Provinces, or any of them, into the union, and on address from the Houses of the Parliament of *Canada* to admit *Rupert's Land* and the North-western territory, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as they had been enacted by the Parliament of the United Kingdom of *Great Britain and Ireland*.

As to representation of Newfoundland and Prince Edward Island in Senate.

147. In case of the admission of *Newfoundland* and *Prince Edward Island*, or either of them, each shall be entitled to a representation in the Senate of *Canada* of four members, and (notwithstanding anything in this Act) in case of the admission of *Newfoundland* the normal number of Senators shall be seventy-six and their maximum number shall be eighty-two; but *Prince Edward Island* when admitted shall be deemed to be comprised in the third of the three divisions into which *Canada* is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of *Prince Edward Island*, whether *Newfoundland* is admitted or not, the representation of *Nova Scotia* and *New Brunswick* in the Senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those Provinces shall not be increased at any time beyond ten, except under the provisions of this Act for the appointment of three or six additional Senators under the direction of the Queen.

SCHEDULES.

THE FIRST SCHEDULE.

Electoral Districts of Ontario.

(The division of the Province into electoral districts has been altered by subsequent Dominion and Provincial Legislation.)

A.

EXISTING ELECTORAL DIVISIONS.

COUNTIES.

1. Prescott.
2. Glengarry.
3. Stormont.
4. Dundas.
5. Russell.

6. Carleton.
7. Prince Edward.
8. Halton.
9. Essex.

RIDINGS

RIDINGS OF COUNTIES.

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan.)
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES, PARTS OF CITIES AND TOWNS.

35. West Toronto.
 36. East Toronto.
 37. Hamilton.
 38. Ottawa.
 39. Kingston.
 40. London.
 41. Town of Brockville, with the Township of Elizabethtown thereto attached.
 42. Town of Niagara, with the Township of Niagara thereto attached.
 43. Town of Cornwall, with the Township of Cornwall thereto attached.
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B.

NEW ELECTORAL DIVISIONS.

44. The Provisional Judicial District of ALGOMA.

The County of BRUCE, divided into two Ridings, to be called respectively the North and South Ridings :—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albemarle, Amable, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.

46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross, and Carrick.

The County of HURON, divided into two Ridings, to be called respectively the North and South Ridings :

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.

48. The South Riding to consist of the Town of Goderich, and the Township of Goderich, Tuckersmith, Stanley, Hay, Osborne, and Stephen.

The County of MIDDLESEX, divided into three Ridings, to be called respectively the North, West, and East Ridings :—

49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.

50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa and Ekfrid, and the Village of Strathroy.

[The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]

51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.

52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.

53. The County of BOTHWELL to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent.

The County of GREY divided into two Ridings to be called respectively the South and North Ridings :—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.

55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of PERTH divided into two Ridings, to be called respectively the South and North Ridings :—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.

57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Marys.

The County of WELLINGTON divided into three Ridings, to be called respectively North, South and Centre Ridings :—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.

59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.

60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The County of NORFOLK, divided into two Ridings, to be called respectively the South and North Ridings :—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
63. The County of HALDIMAND to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Raynham, Walpole, and Dunn.
64. The County of MONCK to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caister and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland.)
65. The County of LINCOLN to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catherines.
66. The County of WELLAND to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.
67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.
68. The County of CARDWELL to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe.)

The County of SIMCOE, divided into Two Ridings, to be called respectively the South and North Ridings :—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Inisfil, Essa, Toronto, Mulmur, and the Village of Bradford.
70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of VICTORIA, divided into two Ridings, to be called respectively the South and North Ridings.

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.
72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monk and Watt (taken from the County of Simcoe), and any other surveyed Townships lying in the north of the said North Riding.

The County of PETERBOROUGH, divided into two Ridings, to be called respectively the West and East Ridings :—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.
74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any surveyed Townships lying to the North of the said East Riding.

The County of HASTINGS, divided into three Ridings, to be called respectively the West, East, and North Ridings :—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.
76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.
77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any surveyed Townships lying to the North of the said North Riding.
78. The County of LENNOX, to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernest Town, and Amherst Island and the Village of Napanee.

79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.

80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburgh and Howe Island, and Storrington.

The County of RENFREW, divided into two Ridings, to be called respectively the South and North Ridings :—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Adamston, Grattan, Matawatchan, Griffith, Lyndoch, Reglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.

82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying North-westerly of the said North Riding.

Every town and incorporated village existing at the union, not specially mentioned in this schedule, is to be taken as part of the County or Riding within which it is locally situate.

THE SECOND SCHEDULE.

Electoral Districts of Quebec specially fixed.

(See the Dom. Act, 35 V., c. 13.)

COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and Richmond.
Argenteuil.	Shefford.	Megantic.
Huntington.	Stanstead.	
	Town of Sherbrooke.	

THE

THE THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

1. Canals, with lands and water power connected therewith.
2. Public harbours.
3. Lighthouses and piers, and Sable Island.
4. Steamboats, dredges, and public vessels.
5. Rivers and lake improvements.
6. Railways, and railway stocks, mortgages, and other debts due by railway companies.
7. Military roads.
8. Custom houses, post offices, and all other public buildings, except such as the Government of *Canada* appropriate for the use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance property.
10. Armouries, drill sheds, military clothing, and munitions of war, and lands set apart for general public purposes.

THE FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.

Lunatic Asylums.

Normal School.

Court Houses,

in

Aylmer.

Montreal.

Kamouraska.

} Lower Canada.

Law Society, Upper Canada.

Montreal Turnpike Trust.

University Permanent Fund.

Royal Institution.

Consolidated Municipal Loan Fund, Upper Canada.

Consolidated Municipal Loan Fund, Lower Canada.

Agricultural Society, Upper Canada.

Lower Canada Legislative Grant.

Quebec Fire Loan.

Temiscouata Advance Account.

Quebec Turnpike Trust.

Education—East.

Building and Jury Fund, Lower Canada.

Municipalities Fund.

Lower Canada Superior Education Income Fund.

THE

THE FIFTH SCHEDULE.

Oath of Allegiance.

I, *A. B.* do swear, that I will bear faithful and bear true allegiance to Her Majesty Queen Victoria.

NOTE.—*The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.*

Declaration of Qualification.

I, *A. B.* do declare and testify, that I am by law duly qualified to be appointed a member of the Senate of *Canada* [*or as the case may be*], and that I am legally or equitably seised as of freehold for my own use and benefit of lands or tenements held in free and common socage [*or seised or possessed for my own use and benefit of lands or tenements held in franc-alieu or rotture (as the case may be),*] in the Province of *Nova Scotia* [*or as the case may be*] of the value of four thousand dollars over and above all rents, dues, debts, mortgages, charges, and incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof for the purpose of enabling me to become a member of the Senate of *Canada* [*or as the case may be*], and that my real and personal property are together worth four thousand dollars over and above my debts and liabilities.

31 & 32 VICT., c. 29—1868.

An Act to amend the Law relating to Medical Practitioners in the Colonies.

WHEREAS by the thirty-first section of "The Medical Act," passed in the session holden in the twenty-first and twenty-second years of Her Majesty, chapter ninety, it is enacted as follows: "Every person registered under this Act shall be entitled, according to his qualification or qualifications, to practice medicine or surgery, or medicine and surgery, as the case may be, in any part of Her Majesty's Dominions, and to demand and recover in any court of law, with full costs of suit, reasonable charges for professional aid, advice, and visits, and the cost of any medicines or other medical or surgical appliances rendered or supplied by him to his patients:" And whereas it is expedient to amend the said enactment:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "The Medical Act Amendment Act, 1868." Short Title.

2. The term "colony" shall in this Act include all of Her Majesty's Possessions abroad, in which there shall exist a Legislature as hereinafter defined, except the *Channel Islands* and the *Isle of Man*. Interpretation of Act.

The term "Colonial Legislature" shall signify the authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any colony.

3. Every Colonial Legislature shall have full power from time to time to make laws for the purpose of enforcing the registration within its jurisdiction of persons who have been registered under "The Medical Act," anything in the said Act to the contrary notwithstanding: Provided, however, that any person who has been duly registered under "The Medical Act" shall be entitled to be registered in any colony, upon payment of the fees (if any) required for such registration, and upon proof, in such manner as the said Colonial Legislature shall direct of his registration under the said Act. Power to Colonial Legislatures to enforce registration of persons registered under the Medical Act

31 & 32 VICT., c. 37—1868.

An Act to amend the Law relating to Documentary Evidence in certain cases.

WHEREAS it is expedient to amend the law relating to evidence: Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited for all purposes as "The Documentary Evidence Act, 1868."

Mode of proving certain documents.

2. *Primâ facie* evidence of any proclamation, order, or regulation, issued before or after the passing of this Act by Her Majesty or by the Privy Council; also, of any proclamation, order, or regulation, issued before or after the passing of this Act by or under the authority of any such department of the Government or officer, as is mentioned in the first column of the schedule hereto, may be given in all courts of justice, and in all legal proceedings whatsoever, in all or in any of the modes hereinafter mentioned; that is to say:

- (1.) By the production of a copy of the *Gazette* purporting to contain such proclamation, order, or regulation.
- (2.) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government printer, or, where the question arises in a court in any *British* colony or possession, of a copy purporting to be printed under the authority of the Legislature of such *British* colony or possession.
- (3.) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the Lords or others of the Privy Council, and in the case of any proclamation, order, or regulation, issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print or partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

3. Subject to any law that may be from time to time made by the Legislature of any *British* colony or possession, this Act shall be in force in every such colony and possession. Act to be in force in colonies.

4. If any person commits any of the offences following, that is to say,— Punishment of forgery.

- (1.) Prints any copy of any proclamation, order, or regulation, which falsely purports to have been printed by the Government printer, or to be printed under the authority of the Legislature of any *British* colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed ; or,
- (2.) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any proclamation, order, or regulation ;

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude for such term as prescribed by the Penal Servitude Act, 1864, as the least term to which an offender can be sentenced to penal servitude, or to be imprisoned for any term not exceeding two years, with or without hard labour.

5. The following words shall in this Act have the meaning hereinafter assigned to them, unless there is something in the context repugnant to such construction ; (that is to say), Definition of terms.

“ *British* colony and possession ” shall for the purposes of this Act include the *Channel Islands*, the *Isle of Man*, and such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of *India* and all other Her Majesty's Dominions. “British colony and possessions.”

“ Legislature ” shall signify any authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any colony or possession. “Legislature.”

“ Privy Council ” shall include Her Majesty in Council and the Lords and others of Her Majesty's Privy Council, or any “Privy Council.”
of

of them, and any Committee of the Privy Council that is not specially named in the schedule hereto.

"Government Printer."

"Government printer" shall mean and include the printer to Her Majesty, any printer purporting to be the printer authorized to print the Statutes, Ordinances, Acts of State, or other public Acts of the Legislature of any *British* colony or possession, or otherwise to be the Government printer of such colony or possession.

"Gazette."

"Gazette" shall include the *London Gazette*, the *Edinburgh Gazette*, and the *Dublin Gazette*, or any of such Gazettes.

Act to be cumulative.

6. The provisions of this Act shall be deemed to be in addition to, and not in derogation of any powers of proving documents given by any existing Statute or existing at common law.

SCHEDULE.

COLUMN 1.	COLUMN 2.
<i>Name of Department or Officer.</i>	<i>Name of Certifying Officer.</i>
The Commissioners of the Treasury.	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the Office of Lord High Admiral.	Any of the Commissioners for executing the Office of Lord High Admiral or either of the Secretaries to the said Commissioners.
Secretaries of State.	Any Secretary or Under Secretary of State.
Committee of Privy Council for Trade.	Any member of the Committee of Privy Council for Trade or any Secretary or Assistant Secretary of the said Committee.
The Poor Law Board.	Any Commissioner of the Poor Law Board or any Secretary or Assistant Secretary of the said Board.

32 VICT., c. 10—1869.

An Act for authorizing the Removal of Prisoners from one Colony to another for the purposes of Punishment.

WHEREAS it is expedient to amend the law relating to the removal of prisoners from one colony to another for the purposes of punishment:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as “The Colonial Prisoners Removal Act, 1869.”

2. For the purposes of this Act:

Definition of terms.

The term “colony” shall not include any place within the United Kingdom, the *Isle of Man*, or the *Channel Islands*, or within such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of *India*, but shall include any plantation, territory, or settlement, situate elsewhere within Her Majesty's Dominions, and subject to the same local Government; and for the purposes of this Act all plantations, territories, and settlements, under a central Legislature, shall be deemed to be one colony under the same local Government.

The term “Governor” shall include the officer for the time being administering the Government of any colony.

Governor.

The term “Legislative body” shall mean any House of Assembly or other body of persons having legislative powers in the colony, and where such body of persons consists of two separate Houses it shall include both Houses, and where there are local Legislative bodies as well as a central Legislative body shall mean the central Legislative body only.

“Legislative body.”

3. The fourth section of the Act, passed in the sixth year of the reign of his late Majesty King George the Fourth, intitled: “An Act for punishing offences committed by trans- ports kept to labour in the colonies, and better regulating
“the

Sect. 4 of 6 G 4,
c. 69 repealed.

“the powers of justices of the peace in *New South Wales*,” is hereby repealed, except so far as may be necessary for supporting or continuing any proceedings taken thereunder.

Prisoners may be removed from one colony to another for purposes of punishment.

4. Any two colonies may, with sanction of an Order of Her Majesty in Council, agree for the removal of any prisoners under sentence or order of transportation, imprisonment, or penal servitude, from one of such colonies to the other for the purpose of their undergoing in such other colony the whole or any part of their punishment, and for the return of such prisoners to the former colony, at the expiration of their punishment, or at such other period as may be agreed upon, upon such terms and subject to such conditions as may seem good to the said colonies.

The sanction of the Order of Her Majesty in Council may be obtained, in the case of a colony having a Legislative body, on an address of such body to Her Majesty, and in the case of any colony not having a Legislative body, on an address of the Governor of such colony; and such sanction shall be in force as soon as such Order in Council has been published in the colony to which it relates.

The agreement of any one colony with another shall for the purposes of this Act be testified by a writing under the hand of the Governor of such colony.

Removal of prisoners to be by warrant.

5. Where the sanction of Her Majesty has been given to any such agreement as aforesaid, relating to the removal of prisoners from one colony to another for the purpose of undergoing their punishment, any prisoners under sentence or order of transportation, imprisonment, or penal servitude, may be removed from such one colony to the other under the authority of a warrant signed by the Governor and addressed to the master of any ship, or any other person or persons; and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to such other colony, and to deliver him when there into the custody of any authority designated in such warrant or empowered by the Governor of such last mentioned colony to receive such prisoner.

Prisoner in legal custody during removal.

6. Every prisoner shall, from the time of leaving his prison in one colony to the time of his reaching his prison in the other colony, be deemed to be in the legal custody of the person or persons empowered to remove him, and to be subject to the same restraint, and, in the event of misbehaviour, to the same punishment as if he had continued in prison, and as if the person or persons empowered to remove him were the gaoler or gaolers of such prison; and if he escape or attempt to escape from such custody, such prisoner, and every

every person aiding or attempting to aid him in such escape, shall be subject to the same punishment as if such escape or attempt to escape were an escape or attempt to escape from prison.

A prison shall mean any place of confinement or any place where the prisoners undergo punishment.

Any person punishable under this section may be tried and punished either in the colony from which the prisoner is being removed, or in the colony to which he is being removed; and the law applicable to such person shall be the law of the colony in which he is tried.

7. Every prisoner shall, upon his delivery to the person having lawful authority to receive him in the colony to which he is removed, be subject within such colony to the same laws and regulations, and shall be dealt with in all respects in the same manner, as if he had been tried and received the same sentence in such colony as the sentence which has been passed on him in the colony from which he is removed.

Liability of
prisoner in
colony to
which he is
removed.

8. And whereas from time to time divers prisoners have been removed from one of Her Majesty's colonies to another, and doubts have been entertained whether such removals were legal, and how far such prisoners could be legally dealt with in the colonies to which they have been removed, and it is expedient that such doubts should be removed: Be it enacted as follows:

Removals
heretofore
made to be
valid for all
purposes.

The removal of any prisoner heretofore made from one colony to another by or under the authority of the Governor of either of such colonies, and any act done in relation to such removal by or under such authority, and the detention, custody, and treatment in either colony of the prisoner so removed, shall be deemed to have been as lawful and effectual for all purposes whatsoever as if this Act had been passed at the time of such removal and had been in force in respect of both the colonies referred to in this section, and such removal had been duly made in pursuance of this Act.

33 VICT., c. 14—1870.

An Act to amend the Law relating to the legal condition of Aliens and British subjects.

WHEREAS it is expedient to amend the law relating to the legal condition of aliens and *British* subjects:—Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title.

1. This Act may be cited for all purposes as "*The Naturalization Act, 1870.*"

Status of Aliens in the United Kingdom.

(*Sec. 2 defines the capacity of aliens as to property in the United Kingdom. As to this Province their capacity is governed by C.S.C., c. 8; s. 9.*)

Power of naturalized aliens to divest themselves of their status in certain cases.

3. Where Her Majesty has entered into a convention with any foreign State to the effect that the subjects or citizens of that State who have been naturalized as *British* subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty, by Order in Council, to declare that such convention has been entered into by Her Majesty; and from and after the date of such Order in Council, any person being originally a subject or citizen of the State referred to in such Order, who has been naturalized as a *British* subject, may, within such limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration, such person shall be regarded as an alien, and as a subject of the State to which he originally belonged as aforesaid.

A declaration of alienage may be made as follows; that is to say:—If the declarant be in the United Kingdom in the presence of any Justice of the Peace; if elsewhere in Her Majesty's Dominions in the presence of any Judge of any court of civil or criminal jurisdiction, of any Justice of the Peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose; if out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

4. Any person who by reason of his having been born within the dominions of Her Majesty is a natural-born subject, but who also at the time of his birth became under the law of any foreign State a subject of such State, and is still such a subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a *British* subject.

How British-born subject may cease to be such.

Any person who is born out of Her Majesty's Dominions of a father being a *British* subject may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a *British* subject.

5. From and after the passing of this Act, an alien shall not be entitled to be tried by a jury *de medietate linguæ*, but shall be triable in the same manner as if he were a natural-born subject.

Alien not entitled to jury *de medietate linguæ*.

Expatriation.

6. Any *British* subject who has at any time before, or may at any time after the passing of this Act, when in any foreign State and not under any disability voluntarily become naturalized in such State, shall from and after the time of his so having become naturalized in such foreign State, be deemed to be have ceased to be a *British* subject and be regarded as an alien: Provided,—

Capacity of *British* subject to renounce allegiance to Her Majesty.

1. That where any *British* subject has before the passing of this Act voluntarily become naturalized in a foreign State, and yet is desirous of remaining a *British* subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a *British* subject, and upon such declaration hereinafter referred to as a declaration of *British* nationality being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a *British* subject; with this qualification, that he shall not, when within the limits of the foreign State in which he has been naturalized, be deemed to be a *British* subject, unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

2. A declaration of *British* nationality may be made, and the oath of allegiance be taken as follows; that is to say:— If the declarant be in the United Kingdom in the presence of a Justice of the Peace; if elsewhere in Her Majesty's Dominions in the presence of any Judge of any court of civil or criminal jurisdiction, of any Justice of the Peace, or of any other

other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose. If out of Her Majesty's Dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

Naturalization and Resumption of British Nationality.

Certificate of
naturalization.

7. An alien who, within such limited time before making the application hereinafter mentioned as may be allowed by one of Her Majesty's Principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers and privileges, and be subject to all obligations, to which a natural-born *British* subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign State of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a *British* subject unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a *British* subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a *British* subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a *British* subject. *

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An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

(As to naturalization of aliens in Canada see Dom. Acts, 31 V., c. 66, 34 V., c. 22, and 36 V., c. 36.)

8. A natural-born *British* subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien, may, on performing the same conditions and adducing the same evidence as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate hereinafter referred to as a certificate of re-admission to *British* nationality, re-admitting him to the status of a *British* subject. The said Secretary of State shall have the same discretion, as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

Certificate of re-admission to British nationality.

A statutory alien to whom a certificate of re-admission to *British* nationality has been granted, shall, from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a *British* subject; with this qualification, that within the limits of the foreign State of which he became a subject he shall not be deemed to be a *British* subject unless he has ceased to be a subject of that foreign State according to the laws thereof, or in pursuance of a treaty to that effect. The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to *British* nationality, in the case of any statutory alien being in any *British* possession may be exercised by the Governor of such possession; and residence in such possession shall, in the case of such person, be deemed equivalent to residence in the United Kingdom.

9. The oath in this Act referred to as the oath of allegiance shall be in the form following; that is to say:—

Form of oath of allegiance.

“I, _____ do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me GOD.”

National

National Status of Married Women and Infant Children.

National
status of mar-
ried women
and infant
children.

10. The following enactments shall be made with respect to the national status of women and children :—

1. A married woman shall be deemed to be a subject of the State of which her husband is for the time being a subject.

2. A widow being a natural-born *British* subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to *British* nationality in manner provided by this Act.

3. Where the father being a *British* subject, or the mother being a *British* subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the State of which the father or mother has become a subject, and not a *British* subject.

4. Where the father, or the mother being a widow, has obtained a certificate of re-admission to *British* nationality, every child of such father or mother who during infancy has become resident in the *British* Dominions with such father or mother, shall be deemed to have resumed the position of a *British* subject to all intents.

5. Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, shall be deemed to be a naturalized *British* subject.

(See *Imp. Act, 35 & 36 V., c. 39, s. 3, post.*)

Supplemental Provisions.

Regulations as
to registration.

11. One of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters :—

1. The form and registration of declarations of *British* nationality.

2. The form and registration of certificates of naturalization in the United Kingdom.

3. The form and registration of certificates of re-admission to *British* nationality.

4. The form and registration of declarations of alienage.

5. The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of *British* subjects who may be born or die out of Her Majesty's Dominions, and of the marriages of persons married at any of Her Majesty's embassies or legations.

6. The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act.

7. With the consent of the Treasury the imposition and application of fees in respect of any registration authorized to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorized to be made or granted by this Act.

The said Secretary of State, by a further regulation, may repeal, alter or add to any regulation previously made by him in pursuance of this section. Any regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not so far as respects the imposition of fees be in force in any *British* possession, and shall not, so far as respects any other matter, be in force in any *British* possession in which any Act or ordinance to the contrary of or inconsistent with any such direction may for the time being be in force.

12. The following regulations shall be made with respect to evidence under this Act:— Regulations as to evidence.

1. Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the declaration mentioned.

2. A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate,
or

or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate.

3. A certificate of re-admission to *British* nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate.

4. Entries in any register authorized to be made in pursuance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register.

5. "The Documentary Evidence Act, 1868," shall apply to any regulation made by a Secretary of State in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

Miscellaneous.

Saving of
letters of
denization.

13. Nothing in this Act shall affect the grant of letters of denization by Her Majesty.

Saving as to
British ships.

14. Nothing in this Act contained shall qualify an alien to be the owner of a *British* ship.

Saving of alle-
giance prior to
expatriation.

15. Where any *British* subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien.

Power of
colonies to
legislate with
respect to na-
turalization.

16. All laws, statutes and ordinances which may be duly made by the Legislature of any *British* possession for imparting to any person the privileges, or any of the privileges of naturalization, to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes or ordinances in that possession.

Definition
of terms.

17. In this Act, if not inconsistent with the context or subject-matter thereof:

"Disability"

"Disability" shall mean the status of being an infant, lunatic, idiot, or married woman.

"*British possession*" shall mean any colony, plantation, island, territory or settlement within Her Majesty's Dominions, and not within the United Kingdom, and all territories and places under one Legislature are deemed to be one *British Possession* for the purposes of this Act.

"The Governor of any *British Possession*" shall include any person exercising the chief authority in such possession.

"Officer in the diplomatic service of Her Majesty" shall mean any Ambassador, Minister or Charge d'Affaires, or Secretary of Legation, or any person appointed by such Ambassador, Minister, Charge d'Affaires, or Secretary of Legation to execute any duties imposed by this Act on an officer in the diplomatic service of Her Majesty.

"Officer in the consular service of Her Majesty" shall mean and include Consul-General, Consul, Vice-Consul and Consular-Agent, and any person for the time being discharging the duties of Consul-General, Consul, Vice-Consul and Consular Agent.

Repeal of Acts mentioned in Schedule.

18. The several Acts set forth in the first and second parts Repeal of Acts of the schedule annexed hereto shall be wholly repealed, and the Acts set forth in the third part of the said schedule shall be repealed to the extent therein mentioned; provided that the repeal enacted in this Act shall not affect—

1. Any right acquired or thing done before the passing of this Act.

2. Any liability accruing before the passing of this Act.

3. Any penalty, forfeiture or other punishment incurred or to be incurred in respect of any offence committed before the passing of this Act.

4. The institution of any investigation or legal proceeding or any other remedy for ascertaining or enforcing any such liability, forfeiture or punishment as aforesaid.

SCHEDULE.

NOTE.—Reference is made to the repeal of the “whole Act” where portions have been repealed before, in order to preclude henceforth the necessity of looking back to previous Acts.

This Schedule, so far as respects Acts prior to the reign of George the Second, other than Acts of the Irish Parliament, refers to the edition prepared under the direction of the Record Commission, intituled “The Statutes of the Realm; printed by command of His Majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From “original records and authentic manuscripts.”

PART I.

Acts wholly repealed, other than Acts of the Irish Parliament.

TITLE.

- 7 Jas. I., c. 2. An Act that all such as are to be naturalized or restored in blood shall first receive the Sacrament of the Lord's Supper, and the oath of allegiance, and the oath of supremacy.
- 11 Will. III., c. 6, (a.) An Act to enable His Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens.
- 13 Geo. II., c. 7. An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's Colonies in *America*.
- 20 Geo. II., c. 44. An Act to extend the provisions of an Act made in the thirteenth year of His present Majesty's reign, intituled “An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of “His Majesty's Colonies in *America*,” to other foreign Protestants who conscientiously scruple the taking of an oath.
- 13 Geo. III., c. 25. An Act to explain two Acts of Parliament, one of the thirteenth year of the reign of His late Majesty, “for naturalizing such foreign Protestants and others, as are settled or “shall settle in any of His Majesty's Colonies in *America*,” and the other of the second year of the reign of His present Majesty, “for naturalizing such foreign Protestants as have “served or shall serve as officers or soldiers in His Majesty's “Royal American regiment or as engineers in *America*.”
- 14 Geo. III., c. 84. An Act to prevent certain inconveniences that may happen by bills of naturalization.

An

NOTE—(a.) 11 and 12 Will, III, (Russ.)

An Act to declare His Majesty's natural-born subjects inheritable to the estate of their ancestors, whether lineal or collateral, in that part of *Great Britain* called *Scotland*, notwithstanding their father or mother were aliens. 16 Geo. III., c. 52.

An Act to alter and amend an Act passed in the seventh year of the reign of His Majesty King James the First, intituled "An Act that all such as are to be naturalized or restored in blood shall first receive the Sacrament of the Lord's Supper and the oath of allegiance and the oath of supremacy." 6 Geo. IV., c. 67.

An Act to amend the laws relating to aliens.

7 and 8 Vict.,
c. 66.

An Act for the naturalization of aliens.

10 and 11 Vict.,
c. 83.

(*Part II. and Part III. give lists of the Acts of the Irish Parliament wholly or partly repealed.*)

33 & 34 VICT., c. 52—1870.

An Act for amending the Law relating to the Extradition of Criminals.

WHEREAS it is expedient to amend the law relating to the surrender to foreign States of persons accused or convicted of the commission of certain crimes within the jurisdiction of such States, and to the trial of criminals surrendered by foreign States to this country :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as "The Extradition Act, 1870." Short Title.
2. Where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that this Act shall apply in the case of such foreign State. Where arrangement for surrender of criminals made, Order in Council to apply Act.

Her

Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's Dominions specified in the order, and render the operation thereof subject to such conditions, exceptions and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then meeting of Parliament, and shall also be published in the London *Gazette*.

Restrictions on
surrender of
criminals.

3. The following restrictions shall be observed with respect to the surrender of fugitive criminals :

- (1.) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the Police Magistrate or the court before whom he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character :
- (2.) A fugitive criminal shall not be surrendered to a foreign State unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's Dominions, be detained or tried in that foreign State for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded :
- (3.) A fugitive criminal who has been accused of some offence within *English* jurisdiction, not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise :
- (4.) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

4. An Order in Council for applying this Act in the case of any foreign State shall not be made unless the arrangement—

Provisions of
arrangements
for surrender.

- (1.) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and
- (2.) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

5. When an order applying this Act in the case of any foreign State has been published in the *London Gazette*, this Act (after the date specified in the order, or if no date is specified, after the date of the publication,) shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions and qualifications, if any, contained in the order, apply in the case of such foreign State. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign State mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.

Publication
and effect of
order.

6. Where this Act applies in the case of any foreign State, every fugitive criminal of that State who is in or suspected of being in any part of Her Majesty's Dominions, or that part which is specified in the order applying this Act (as the case may be) shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's Dominions over that crime.

Liability of
criminal to
surrender.

(By Imp. Act, 36 & 37 V., c. 60, s. 2, post, it is declared that a crime committed before the date of the order includes in this section a crime committed before the passing of this Act.)

7. A requisition for the surrender of a fugitive criminal of any foreign State, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign State. A Secretary of State may, by order under his hand and seal, signify to a Police Magistrate that such requisition has been made and require him to issue his warrant for the apprehension of the fugitive criminal.

Order of Se-
cretary of
State for issue
of warrant in
United King-
dom if crime is
not of a politi-
cal character.

(For interpretation of "diplomatic representative" see 36 & 37 V., c. 60, s. 7, post.)

If

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time, order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of warrant by Police Magistrate, Justice, &c.

8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

- (1.) by a Police Magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in *England*; and
- (2.) by a Police Magistrate or any Justice of the Peace in any part of the United Kingdom, on such information or complaint and such evidence, or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint or certified copies thereof to a Secretary of State, who may, if he think fit, order the warrant to be cancelled and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section who shall, by warrant, order him to be brought, and the prisoner shall accordingly be brought before a Police Magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the Police Magistrate, unless the Police Magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from the Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

Hearing of case and evidence of political character of crime.

9. When a fugitive criminal is brought before the Police Magistrate, the Police Magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in *England*.

The

The Police Magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the Law of *England*, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in *England*, the Police Magistrate shall commit him to prison, but otherwise shall order him to be discharged.

Committal or
discharge of
prisoner.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the Law of *England*, prove that the prisoner was convicted of such crime, the Police Magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

11. If the Police Magistrate commits a fugitive criminal to prison he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *Habeas corpus*.

Surrender of
fugitive to
Foreign State
by warrant
of Secretary
of State.

Upon the expiration of the said fifteen days; or, if a writ of *Habeas corpus* is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the Foreign State from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such Foreign State the criminal mentioned in the warrant ;
and

and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's Dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom, within two months after such committal; or, if a writ of *Habeas corpus* is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of warrant of Police Magistrate.

13. The warrant of the Police Magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a Justice of the Peace, having jurisdiction in the place where the same is executed.

Depositions to be evidence, 6 & 7 Vict., c. 76.

14. Depositions or statements on oath, taken in a foreign State, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction may, if duly authenticated, be received in evidence in proceedings under this Act.

(By Imp. Act, 36 & 37 V., c. 60, s. 4, post, the provisions of this Act relating to depositions and statements on oath taken in a foreign State are extended to affirmations so taken.)

Authentication of depositions and warrants, 29 & 30 Vict., c. 121.

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner for the time being by law or authenticated as follows:—

- (1.) If the warrant purports to be signed by a Judge, Magistrate, or officer of the foreign State where the same was issued:
- (2.) If the depositions or statements or the copies thereof purport to be certified, under the hand of a Judge, Magistrate, or officer of the foreign State where the same were taken, to be the original depositions or statements or to be true copies thereof as the case may require; and
- (3.)

- (3.) If the certificate of or judicial document stating the fact of conviction purports to be certified by a Judge, Magistrate, or officer of the foreign State where the conviction took place; and

If in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be), are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice, or some other Minister of State. And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

(See note to Sec. 14.)

Crimes committed at Sea.

16. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:

Jurisdiction as to crimes committed at sea.

1. This Act shall be construed as if any Stipendiary Magistrate in *England* or *Ireland*, and any Sheriff or Sheriff substitute in *Scotland*, were substituted for the Police Magistrate throughout this Act, except the part relating to the execution of the warrant of the Police Magistrate:
2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:
3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the Stipendiary Magistrate, Sheriff, or Sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

(See *Imp. Act, 36 & 37 V., c. 60, s. 6, post.*)

Fugitive Criminals in British Possessions.

17. This Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every *British* possession in the same manner as if throughout this Act the *British* possession were substituted for the United Kingdom or *England*, as the case may require, but with the following modifications namely—

Proceedings as to fugitive criminals in British possessions.

- (1.) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a *British* possession may be made to the Governor of that *British* possession by any person recognized by that Governor as a Consul-General, Consul, or Vice-Consul, or, if the fugitive criminal has escaped from a colony or dependency of the foreign State on behalf of which the requisition is made, as the Governor of such colony or dependency :

(For interpretation of "Consul" and "Vice-Consul" see *Imp. Act, 36 & 37 V., c. 60, s. 7, post.*)

- (2.) No warrant of a Secretary of State shall be required, and all powers vested in or Acts authorized or required to be done under this Act by the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the *British* possession alone :
- (3.) Any prison in the *British* possession may be substituted for a prison in Middlesex :
- (4.) A Judge of any court exercising in the *British* possession the like powers as the Court of Queen's Bench exercises in *England*, may exercise the power of discharging a criminal when not conveyed within two months out of such *British* possession.

Saving of laws
of British
possessions.

18. If by any law or ordinance, made before or after the passing of this Act by the legislature of any *British* possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such *British* possession, Her Majesty may, by the Order in Council applying this Act, in the case of any foreign State, or by any subsequent order, either

suspend the operation within any such *British* possession of this Act, or of any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer ;

or direct that such law or ordinance, or any part thereof, shall have effect in such *British* possession, with or without modifications and alterations, as if it were part of this Act.

(*Dom. Acts 31 V., c. 94, and 33 V., c. 25, relate to the extradition of criminals from Canada to the United States.*)

General Provisions.

Criminal sur-
rendered by
foreign State
not triable for
previous crime

19. Where, in pursuance of any arrangement with a foreign State, any person accused or convicted of any crime which, if committed in *England*, would be one of the crimes described

described in the first schedule to this Act is surrendered by that foreign State, such person shall not, until he has been restored or had an opportunity of returning to such foreign State, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's Dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a *British* possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

As to use of forms in second schedule.

21. Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis* to any such new order.

Revocation, &c., of Order in Council.

(*Sec. 22 extended this Act to the Channel Islands and the Isle of Man.*)

(*Sec. 23 relates to extradition treaties with Indian native States and other Asiatic States.*)

24. The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign State in like manner as it may be obtained in relation to any civil matter under the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter one hundred and thirteen, intituled "*An Act to provide for taking evidence in Her Majesty's Dominions in relation to civil and commercial matters pending before foreign tribunals*;" and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Power of foreign State to obtain evidence in United Kingdom.

25. For the purposes of this Act, every colony, dependency, and constituent part of a foreign State, and every vessel of that State, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign State.

Foreign State includes dependencies.

26. In this Act, unless the context otherwise requires,—

Definition of terms.

The term "*British* possession" means any colony, plantation, island, territory, or settlement within Her Majesty's Dominions,

"British possession."

Dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories and settlements under one legislature, as hereinafter defined, are deemed to be one *British* possession :

- "Legislature." The term "legislature" means any person or persons who can exercise legislative authority in a *British* possession, and where there are local legislatures as well as a central legislature, means the central legislature only :
- "Governor." The term "Governor" means any person or persons administering the government of a *British* possession, and includes the governor of any part of India :
- "Extradition crime." The term "extradition crime" means a crime which, if committed in *England* or within *English* jurisdiction, would be one of the crimes described in the first schedule to this Act :
- "Conviction." The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy :
- "Fugitive criminal." The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign State, who is in or suspected of being in some part of Her Majesty's Dominions ; and the term "fugitive criminal of a foreign State" means a fugitive criminal or accused or convicted of an extradition crime committed within the jurisdiction of that State :
- "Secretary of State." The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State :
- "Police Magistrate." The term "Police Magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow street :
- "Justice of the Peace." The term "Justice of the Peace" includes in *Scotland* any Sheriff, Sheriff's substitute, or Magistrate :
- "Warrant." The term "warrant" in the case of any foreign State, includes any judicial document authorizing the arrest of a person accused or convicted of crime :

Repeal of Acts.

Repeal of Acts
in third sched-
ule.

27. The Acts specified in the third schedule to this Act are hereby repealed as to the whole of Her Majesty's Dominions ; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts

so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign States with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any *British* possession with respect to such treaties should have effect as part of this Act.

Provided that if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said Acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered in the same manner as if this Act had not passed.

SCHEDULES.

FIRST SCHEDULE.

List of Crimes.

The following list of crimes is to be construed according to the law existing in *England* or in a *British* possession (as the case may be) at the date of the alleged crime, whether by common law or by Statute made before or after the passing of this Act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force.

Rape.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

(See Imp. Act 36 & 37 V., c. 60, s. 8, post, by which it is provided that this Act shall be construed as if the crimes mentioned in the schedule to that Act were included in this schedule. Imp. Act 36 & 37 V., c. 88, (The Slave Trade Act, 1873), makes a further addition to the list of extradition offences. Sec. 27 of that Act is as follows:

27. Offences committed against this Act or the enactments with which this Act is to be construed as one, or otherwise in connection with the slave trade, whether committed on the high seas or on land, or partly on the high seas or partly on land, shall be deemed to be inserted in the first schedule to the Extradition Act, 1870, and that Act and any Act amending the same shall be construed accordingly.)

SECOND SCHEDULE.

Form of Order of Secretary of State to the Police Magistrate.

To the Chief Magistrate of the Metropolitan Police Courts or other Magistrate of the Metropolitan Police Court in Bow Street [or the Stipendiary Magistrate at]

Whereas in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council dated the day

day of _____, a requisition has been made to me, _____, one of Her Majesty's Principal Secretaries of State, by _____, the diplomatic representative of _____, for the surrender of _____, late of _____, accused [or convicted] of the commission of the crime of _____, within the jurisdiction of _____. Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of "*The Extradition Act, 1870*," relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of 18 .

Form of Warrant of Apprehension by Order of Secretary of State.

METROPOLITAN POLICE } To all and each of the constables of
DISTRICT [or COUNTY] { the metropolitan police force, [or of the
or BOROUGH OF] county or borough of
To Wit.]

WHEREAS the Right Honorable _____ one of Her Majesty's Principal Secretaries of State, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of _____, late of _____, accused [or convicted] of the commission of the crime of _____, within the jurisdiction of _____. This is therefore to command you in Her Majesty's name forthwith to apprehend the said _____ pursuant to "*The Extradition Act, 1870*," wherever he may be found in the United Kingdom or Isle of Man, and bring him before me or some other [*magistrate sitting in this court], to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at [*Bow street, one of the
police courts of the metropolis] this day of 18. .

J. P.

*NOTE.—Alter as required.

*Form of Warrant of Apprehension without Order of Secretary
of State.*

METROPOLITAN POLICE } To all and each of the constables of
DISTRICT [or COUNTY] } the metropolitan police force, [or of the
or BOROUGH OF]
To Wit. } county or borough of]

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district, [or the said county or borough of _____], that _____, late of _____, is accused [or convicted] of the commission

mission of the crime of _____ within the jurisdiction of _____ . This is, therefore, to command you in Her Majesty's name forthwith to apprehend the said _____ , and to bring him before me or some other magistrate sitting at this court, [or one of Her Majesty's justices of the peace in and for the county (or borough) of _____], to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis, [or _____ in the county or borough aforesaid], this _____ day of _____ 18 .

J. P.

Form of Warrant for bringing Prisoner before the Police Magistrate.

COUNTY [or BOR-
OUGH] OF _____ To _____ , constable of the police force
To Wit. } of _____ , and to all other peace officers in the
said county [or borough] of _____ .

WHEREAS _____ , late of _____ , accused [or alleged to be convicted of] the commission of the crime of _____ within the jurisdiction of _____ , has been apprehended and brought before the undersigned, one of Her Majesty's justices of the peace in and for the said county [or borough] of _____ . And whereas by "*The Extradition Act, 1870*," he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow street, within the metropolitan police district [or the stipendiary magistrate for _____].

This is, therefore, to command you, the said constable, in Her Majesty's name, forthwith to take and convey the said _____ to the metropolitan police district [or the said _____], and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow street within the said district [or before a stipendiary magistrate sitting in the said _____], to show cause why should not be surrendered in pursuance of "*The Extradition Act, 1870*," and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

Given under my hand and seal at _____ , in the county [or borough] aforesaid, this _____ day of _____ 18 .

J. P.

Form of Warrant of Committal.

METROPOLITAN
 POLICE DISTRICT
 [or the COUNTY or
 BOROUGH OF
 To Wit.

To _____, one of the constables
 of the metropolitan police force [or of the
 police force of the county or borough of
 _____, and to the keeper of the

Be it remembered that on this day of , in the year of our Lord , late of , is brought before me, , the chief magistrate of the metropolitan police courts [or one of the police magistrates of the metropolis] sitting at the police court in Bow street, within the metropolitan police district, [or a stipendiary magistrate for], to show cause why he should not be surrendered in pursuance of "*The Extradition Act, 1870*," on the ground of his being accused [or convicted] of the commission of the crime of within the jurisdiction of ; and for as much as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act :

This is, therefore, to command you, the said constable, in Her Majesty's name, forthwith to convey and deliver the body of the said _____ into the custody of the said keeper of the _____, at _____, and you, the said keeper, to receive the said _____ into your custody, and him there safely to keep until he is thence delivered, pursuant to the provisions of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at Bow street, one of the
police courts of the metropolis, [or at the said _____], this
day of _____ 18 _____.

J. P.

Form of Warrant of Secretary of State for surrender of Fugitive.

To the keeper of _____, and to

WHEREAS _____, late of _____, accused [or convicted] of the commission of the crime of _____ within the jurisdiction of _____, was delivered into the custody of you _____, the keeper of _____, by warrant dated _____, pursuant to "*The Extradition Act, 1870*:"

Now I do hereby, in pursuance of the said Act, order you, the said keeper, to deliver the body of the said into the custody of the said , and I command you, the said , to receive the said into your custody, and to convey him within the jurisdiction of the said , and there place him in the custody of any person or persons appointed by the said to receive him, for which this shall be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of

THIRD

THIRD SCHEDULE.

Year and chapter. }	TITLE.
6 & 7, Vict., c. 73.	An Act for giving effect to a convention between Her Majesty and the King of the <i>French</i> for the apprehension of certain offenders.
6 & 7, Vict., c. 76.	An Act for giving effect to a treaty between Her Majesty and the United States of <i>America</i> for the apprehension of certain offenders.
8 & 9, Vict., c. 120.	An Act for facilitating execution of the treaties with <i>France</i> and the United States of <i>America</i> for the apprehension of certain offenders.
25 & 26, Vict., c. 70.	An Act for giving effect to a convention between Her Majesty and the King of <i>Denmark</i> for the mutual surrender of criminals.
29 & 30, Vict., c. 121.	An Act for the amendment of the law relating to treaties of extradition.

33 & 34 VICT., c. 90—1870.

An Act to regulate the conduct of Her Majesty's subjects during the existence of hostilities between foreign States with which Her Majesty is at peace.

WHEREAS it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the existence of hostilities between foreign States with which Her Majesty is at peace :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

- | | |
|---------------------|---|
| Short title of Act. | 1. This Act may be cited for all purposes as " The Foreign Enlistment Act, 1870." |
| Application of Act. | 2. This Act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters. |

3. This Act shall come into operation in the United Kingdom immediately on the passing thereof, and shall be proclaimed in every *British* possession by the Governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that *British* possession on the day of such proclamation, and the time at which this Act comes into operation in any place is, as respects such place, in this Act referred to as the commencement of this Act.

Commence-
ment of Act.

Illegal Enlistment.

4. If any person, without the license of Her Majesty, being a *British* subject, within or without Her Majesty's Dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign State at war with any foreign State at peace with Her Majesty, and in this Act referred to as a friendly state, or whether a *British* subject or not within Her Majesty's Dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign State as aforesaid,—

Penalty on
enlistment in
service of
foreign state.

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

5. If any person, without the license of Her Majesty, being a *British* subject, quits or goes on board any ship with a view of quitting Her Majesty's Dominions, with intent to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State, or, whether a *British* subject or not, within Her Majesty's Dominions, induces any other person to quit or to go on board any ship with a view of quitting Her Majesty's Dominions with the like intent,—

Penalty on
leaving Her
Majesty's
Dominions
with intent to
serve a foreign
state.

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

6. If any person induces any other person to quit Her Majesty's Dominions or to embark on any ship within Her Majesty's Dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State,—

Penalty on
embarking
persons under
false represen-
tations as to
service.

He

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour:

Penalty on
taking illegal-
ly enlisted
persons on
board ship.

7. If the master or owner of any ship, without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within Her Majesty's Dominions any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,

- (1.) Any person who, being a *British* subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign State at war with any friendly State:
- (2.) Any person, being a *British* subject, who without the license of Her Majesty, is about to quit Her Majesty's Dominions with intent to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State:
- (3.) Any person who has been induced to embark under a misrepresentation or false misrepresentation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State:

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue, that is to say:—

- (1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour: and
- (2.) Such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties, to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace: and
- (3.) All illegally enlisted persons shall immediately on the discovery of the offence, be taken on shore, and shall not be allowed to return to the ship.

Illegal

Illegal Shipbuilding and Illegal Expeditions.

8. If any person within Her Majesty's Dominions, without the license of Her Majesty, does any of the following acts : that is to say,—

Penalty on
illegal ship
building and
illegal expedi-
tions.

- (1.) Builds or agrees to build or causes to be built any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State : or
- (2.) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State : or
- (3.) Equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State : or
- (4.) Despatches, or causes or allows to be despatched, any ship, with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State :

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue :

- (1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted ; and imprisonment, if awarded, may be either with or without hard labour.
- (2.) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty ;

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following,—that is to say :

- (1.) If forthwith upon a proclamation of neutrality being issued by Her Majesty, he gives notice to the Secretary of

of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract, and of any matters relating to or done, or to be done under the contract, as may be required by the Secretary of State :

- (2.) If he gives such security, and takes or permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.

Presumption as to evidence in case of illegal ship.

9. Where any ship is built by order of or on behalf of any foreign State when at war with a friendly State, or is delivered to or to the order of such foreign State, or any person who, to the knowledge of the person building, is an agent of such foreign State, or is paid for by such foreign State or such agent, and is employed in the military or naval service of such foreign State, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign State.

Penalty on aiding the warlike equipment of foreign ships.

10. If any person within the dominions of Her Majesty, and without the license of Her Majesty,—

By adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship, which, at the time of her being within the dominions of Her Majesty, was a ship in the military or naval service of any foreign State at war with any friendly State,—

Such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on fitting out naval or military expeditions without license.

11. If any person within the limits of Her Majesty's Dominions, and without the license of Her Majesty,—

Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly State, the following consequences shall ensue :—

(1.)

- (1.) Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Act, and shall be punishable by fine or imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.
- (2.) All ships and their equipments, and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty.

12. Any person who aids, abets, counsels or procures the commission of any offence against this Act shall be liable to be tried and punished as a principal offender. Punishment of accessories.

13. The term of imprisonment to be awarded in respect of any offence against this Act shall not exceed two years. Limitation of terms of imprisonment.

Illegal Prize.

14. If, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty in violation of the neutrality of this realm, or captured by any ship, which may have been built, equipped, commissioned or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's Dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the Government of the foreign State to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored. Illegal prize brought into British ports restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and, in the meantime, and until a final order has been made on such application, the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandize, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction.

General

General Provision.

License by
Her Majesty—
how granted.

15. For the purposes of this Act, a license by Her Majesty shall be under the sign manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty.

Legal Procedure.

Jurisdiction in
respect of
offences by
persons
against Act.

16. Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person found guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's Dominions in which the person who committed such offence may be.

Venue in
respect of
such offences.
24 & 25 Vict.,
c. 97.

17. Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within Her Majesty's Dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held.

Power to re-
move offend-
ers for trial.

18. The following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any *British* court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may, by warrant or instrument in the nature of a warrant in this section included in the term "warrant," direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's Dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant, and to deliver him, when arrived at such place or places, into the custody of any authority designated by such warrant.

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

19. All proceedings for the condemnation and forfeiture of a ship, or ship and equipment, or arms and munitions of war, in pursuance of this Act, shall require the sanction of the Secretary of State or such chief executive authority as is in this Act mentioned, and shall be had in the Court of Admiralty, and not in any other court; and the Court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act, all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.

Jurisdiction in respect of forfeiture of ships for offences against Act.

20. Where any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in the Court of Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture, because proceedings are taken against the offender.

Regulations as to proceedings against the offender and against the ship.

21. The following officers, that is to say,

- (1.) Any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the Commissioner of Customs, or any officer of the Board of Trade subject nevertheless to any special or general instructions from the Board of Trade;
- (2.) Any officer of customs or public officer in any *British* Possession, subject nevertheless to any special or general instructions from the Governor of such possession;
- (3.) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;
- (4.) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer;

Officers authorized to seize offending ships.

may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority," but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

Powers of officers authorized to seize ships.

22. Any officer authorized to seize or detain any ship in respect of any offence against this Act may, for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police, or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbor master or dock master, or any officers having authority by law to make seizures of ships; and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act; and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention; and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person, shall be freely and fully indemnified as well against the Queen's Majesty, Her heirs and successors, as against all persons so killed, maimed or hurt.

Special power of Secretary of State or chief executive authority to detain ship.

23. If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's Dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, such Secretary of State or chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner hereinafter mentioned.

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown.

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority.

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section

section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive authority that the ship shall not be employed contrary to this Act, or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect to the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by the Commissioners of the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section, where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the court declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's Dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character has taken place in this country.

24. Where it is represented to any local authority, as defined by this Act, and such local authority believes the representation, Special power of local authority to detain ship.

representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's Dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority.

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State, without any communication from the local authority.

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention, upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the court for such release.

Power of Secretary of State or executive authority to grant search warrant.

25. The Secretary of State or the chief executive authority may, by warrant, empower any person to enter any dock-yard or other place within Her Majesty's Dominions and enquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign State at war with a friendly State, and to search such ship.

Exercise of powers of Secretary of State or chief executive authority.

26. Any powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions; that is to say:

(1.) In *Ireland* by the Lord Lieutenant or other the chief Governor or Governors of *Ireland* for the time being, or the chief Secretary to the Lord Lieutenant;

(2.)

(2.) In *Jersey* by the Lieutenant Governor:

(3.) In *Guernsey*, *Alderney*, and *Sark*, and the dependent islands by the Lieutenant Governor:

(4.) In the *Isle of Man* by the Lieutenant Governor:

(5.) In any *British* possession by the Governor.

A copy of any warrant issued by a Secretary of State or by any officer authorised in pursuance of this Act to issue such warrant in *Ireland*, the *Channel Islands*, or the *Isle of Man*, shall be laid before Parliament.

27. An appeal may be had from any decision of a Court of Admiralty under this Act to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty.

Appeal from
Court of Admi-
rality.

28. Subject to the provisions of this Act providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court of Admiralty no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act.

Indemnity to
officers.

29. The Secretary of State shall not, nor shall the chief executive authority, be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant.

Indemnity to
Secretary of
State or chief
executive au-
thority.

Interpretation Clause.

30. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say,—

Interpreta-
tion of terms.

“Foreign state” includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of Government in or over any foreign country, colony, province, or part of any province or people:

“Foreign
State.”

“Military service” shall include military telegraphy and any other employment whatever, in or in connexion with any military operation:

“Military
Service.”

“Naval service” shall, as respects a person, include service as a marine, employment as a pilot in piloting or directing

“Naval
Service.”

directing the course of a ship of war or other ship, when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer, or ship under letters of marque; and, as respects a ship, include any user of a ship as a transport, store ship, privateer or ship under letters of marque:

"United Kingdom."

"United Kingdom" includes the *Isle of Man*, the *Channel Islands*, and other adjacent islands:

"British possession."

"*British Possession*" means any territory, colony, or place, being part of Her Majesty's Dominions and not part of the United Kingdom, as defined by this Act:

"The Secretary of State."

"The Secretary of State" shall mean any one of Her Majesty's principal Secretaries of State:

"Governor."

"The Governor" shall, as respects *India*, mean the Governor General or the Governor of any Presidency, and where a *British* possession consists of several constituent colonies, mean the Governor General of the whole possession, or the Governor of any of the constituent colonies, and as respects any other *British* possession it shall mean the officer for the time being administering the Government of such possession; also any person acting for or in the capacity of a Governor shall be included under the term "Governor":

"Court of Admiralty."

"Court of Admiralty" shall mean the High Court of Admiralty of *England* or *Ireland*, the Court of Session of *Scotland*, or any Vice-Admiralty Court within Her Majesty's Dominions:

"Ship."

"Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel, or other craft or battery, made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water:

"Building."

"Building" in relation to a ship shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly:

"Equipping."

"Equipping" in relation to a ship shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, munitions, or stores, or any other thing which is used in a ship for the purpose of fitting or
adapting

adapting her for the sea or for naval service; and all words relating to equipping shall be construed accordingly:

“Ship and equipment” shall include a ship and every thing in or belonging to a ship: “Ship and equipment.”

“Master” shall include any person having the charge or command of a ship. “Master.”

Repeal of Acts and Saving Clauses.

31. From and after the commencement of this Act, an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, chapter sixty-nine, intituled “An Act to prevent the enlisting or engagement of His Majesty’s subjects to serve in foreign service, and the fitting out or equipping, in His Majesty’s Dominions, vessels for “warlike purposes, without His Majesty’s license,” shall be repealed: Provided that such repeal shall not affect any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation, nor the institution of any investigation or legal proceeding, or any other remedy for enforcing any such penalty, forfeiture, or punishment as aforesaid. Repeal of foreign enlistment Act, 59 G. 3, c. 69.

32. Nothing in this Act contained shall subject to forfeiture any commissioned ship of any foreign State, or give to any *British* court over or in respect of any ship entitled to recognition as a commissioned ship of any foreign State any jurisdiction which it would not have had if this Act had not passed. Saving as to commissioned foreign ships.

33. Nothing in this Act contained shall extend or be construed to extend to subject to any penalty any person who enters into the military service of any prince, State, or potentate in *Asia*, with such leave or license as is for the time being required by law in the case of subjects of Her Majesty, entering into the military service of princes, States, or potentates in *Asia*. Penalties not to extend to persons entering into military service in Asia—59 G. 3, c. 69, s. 12.

33 & 34 VICT., c. 102—1870.

An Act to amend the Law relating to the taking of oaths of Allegiance on Naturalization.

33 & 34 Vict.,
c. 14.

WHEREAS it is expedient to amend the law relating to the taking of oaths of allegiance under "*The Naturalization Act, 1870*:" Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Regulations as
to oath of
allegiance.

1. The power of making regulations vested in one of Her Majesty's principal Secretaries of State by "*The Naturalization Act, 1870*," shall extend to prescribing as follows :—

- (1.) The persons by whom the oaths of allegiance may be administered under that Act :
- (2.) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested :
- (3.) The registration of such oaths :
- (4.) The persons by whom certified copies of such oaths may be given :
- (5.) The transmission to the United Kingdom, for the purpose of registration or safe keeping or of being produced as evidence, of any oaths taken in pursuance of the said Act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act :
- (6.) The proof in any legal proceedings of such oaths :
- (7.) With the consent of the Treasury, the imposition and application of fees in respect of the administration or registration of any such oath.

The two last paragraphs in the eleventh section of the Naturalization Act, 1870, shall apply to regulations made under this Act.

Penalty on
making false
declaration.

2. Any person wilfully and corruptly making or subscribing any declaration under "*The Naturalization Act, 1870*," knowing

ing the same to be untrue in any material particular, shall be guilty of a misdemeanour, and be liable to imprisonment with or without hard labour, for any term not exceeding twelve months.

3. This Act shall be termed the “*Naturalization Oath Act, 1870*,” and shall be construed as one with “*The Naturalization Act, 1870*,” and may be cited together with that Act as the “*Naturalization Acts, 1870*.” Construction and short title of Act.

34 & 35 VICT., c. 28—1871.

An Act respecting the establishment of Provinces in the Dominion of Canada.

WHEREAS doubts have been entertained respecting the powers of the Parliament of *Canada* to establish Provinces in territories admitted, or which may hereafter be admitted into the Dominion of *Canada*, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited for all purposes as “*The British North America Act, 1871*.” Short title.

2. The Parliament of *Canada* may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of *Canada*, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament. Parliament of Canada may establish new Provinces and provide for the constitution, &c., thereof.

3. The Parliament of *Canada* may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of Alteration of limits of Provinces.

of

of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

Parliament of Canada may legislate for any territory not included in a Province.

4. The Parliament of *Canada* may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

Confirmation of Acts of Parliament of Canada, 32 & 33 Vict., (Canadian) cap. 3, 33 Vict., (Canadian) cap. 3.

5. The following Acts passed by the said Parliament of *Canada*, and intituled respectively: "An Act for the temporary government of *Rupert's Land* and the North Western Territory when united with *Canada*," and "An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the Province of *Manitoba*," shall be and be deemed to be valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen's name, of the Governor General of the said Dominion of *Canada*.

Limitation of powers of Parliament of Canada to legislate for an established Province.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of *Canada* to alter the provisions of the last mentioned Act of the said Parliament, in so far as it relates to the Province of *Manitoba*, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of *Manitoba* to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

35 & 36 VICT., c. 39—1872.

An Act for amending the Law in certain cases in relation to Naturalization.

WHEREAS by a Convention between Her Majesty and the *United States of America*, supplementary to the Convention of the thirteenth day of May, one thousand eight hundred and seventy, respecting naturalization, and signed at *Washington* on the twenty-third day of February, one thousand eight hundred and seventy-one, and a copy of which is contained in the schedule to this Act, provision is made in relation to the renunciation by the citizens and subjects therein mentioned of naturalization or nationality in the presence of the officers therein mentioned :

And whereas doubts are entertained whether such provisions are altogether in accordance with the Naturalization Act, 1870 : And whereas other doubts have arisen with respect to the effect of "The Naturalization Act, 1870," on the rights of women married before the passing of that Act ; and it is expedient to remove such doubts :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited for all purposes as the Naturalization Act, 1872, and this Act and "The Naturalization Act, 1870," may be cited together as "The Naturalization Acts, 1870 and 1872." Short Title.

2. Any renunciation of naturalization or of nationality made in manner provided by the said supplementary Convention by the persons and under the circumstances in the said Convention in that behalf mentioned shall be valid to all intents, and shall be deemed to be authorized by the said Naturalization Act, 1870. This section shall be deemed to take effect from the date at which the said supplementary Convention took effect. Confirmation of renunciation of nationality under the Convention.

3. Nothing contained in "*The Naturalization Act, 1870*," shall deprive any married woman of any estate or interest in real or personal property to which she may have become entitled previously to the passing of that Act, or affect such estate or interest to her prejudice. Saving clause as to property of married women.

SCHEDULE.

SCHEDULE.

CONVENTION between Her Majesty and the *United States of America*, supplementary to the Convention of May 13, 1870, respecting Naturalization.

Signed at Washington, 23rd February, 1871.

[*Ratifications exchanged at Washington, May 4, 1871.*]

WHEREAS by the second article of the Convention between Her Majesty the Queen of the United Kingdom of *Great Britain and Ireland* and the *United States of America* for regulating the citizenship of subjects and citizens of the contracting parties who have emigrated or may emigrate from the dominions of the one to those of the other party, signed at *London*, on the 13th of May, 1870, it was stipulated that the manner in which the renunciation by such subjects and citizens of their naturalization, and the resumption of their native allegiance, may be made and publicly declared, should be agreed upon by the Governments of the respective countries; Her Majesty the Queen of the United Kingdom of *Great Britain and Ireland* and the President of the *United States of America*, for the purpose of effecting such agreement, have resolved to conclude a supplemental Convention, and have named as their plenipotentiaries, that is to say; Her Majesty the Queen of the United Kingdom of *Great Britain and Ireland*, Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, and Her Envoy Extraordinary and Minister Plenipotentiary to the *United States of America*, and the President of the *United States of America*, Hamilton Fish, Secretary of State; who have agreed as follows:

ARTICLE I.

Any person being originally a citizen of the *United States* who had, previously to May 13, 1870, been naturalized as a *British* subject may at any time before August 10, 1872, and any *British* subject who, at the date first aforesaid, had been naturalized as a citizen within the *United States*, may at any time before May 12, 1872, publicly declare his renunciation of such naturalization by subscribing an instrument in writing, substantially in the form hereunto appended, and designated as Annex A.

Such renunciation by an original citizen of the *United States*, of *British* nationality, shall, within the territories and jurisdiction of the *United States*, be made in duplicate, in the presence

presence of any court authorized by law for the time being to admit aliens to naturalization, or before the clerk or prothonotary of any such court ; if the declarant be beyond the territories of the *United States*, it shall be made in duplicate, before any diplomatic or consular officer of the *United States*. One of such duplicates shall remain of record in the custody of the court or officer in whose presence it was made ; the other shall be, without delay, transmitted to the department of State.

Such renunciation, if declared by an original *British* subject, of his acquired nationality as a citizen of the *United States*, shall, if the declarant be in the United Kingdom of *Great Britain and Ireland*, be made in duplicate, in the presence of a justice of the peace ; if elsewhere in Her *Britannic* Majesty's Dominions, in triplicate, in the presence of any judge of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose ; if out of Her Majesty's Dominions, in triplicate, in the presence of any officer in the diplomatic or consular service of Her Majesty.

ARTICLE II.

The contracting parties hereby engage to communicate each to the other, from time to time, lists of the persons who, within their respective dominions and territories, or before their diplomatic and consular officers, have declared their renunciation of naturalization, with the dates and places of making such declarations, and such information as to the abode of the declarants, and the times and places of their naturalization, as they may have furnished.

ARTICLE III.

The present Convention shall be ratified by Her *Britannic* Majesty, and by the President of the *United States* by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at *Washington* as soon as may be convenient.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto respective seals.

Done at *Washington*, the twenty-third day of February, in the year of our Lord one thousand eight hundred and seventy-one.

(L.S.)
(L.S.)

EDWD. THORNTON.
HAMILTON FISH.

ANNEX (A.)

I, *A.B.*, of (*insert abode*), being originally a citizen of the *United States of America* (*or a British subject*), and having become naturalized within the dominions of Her *Britannic Majesty* as a *British subject* (*or as a citizen within the United States of America*), do hereby renounce my naturalization as a *British subject* (*or citizen of the United States*); and declare that it is my desire to resume my nationality as a citizen of the *United States* (*or British subject*.)

(Signed,) *A.B.*

Made and subscribed before me in (*insert country or other subdivision, and state, province, colony, legation or consulate*), this day of 187 .

(Signed,) *E.F.*,

Justice of the Peace (*or other title*.)

(L.S.) EDWD. THORNTON.
(L.S.) HAMILTON FISH.

35 & 36 VICT., c. 45—1872.

An Act to carry into effect a Treaty between Her Majesty and the United States of America.

WHEREAS a treaty between Her Majesty and the *United States of America* was signed at *Washington* on the eighth day of May, one thousand eight hundred and seventy-one, and was duly ratified on the seventeenth day of June of that year, which, amongst other things, contained the articles set out in the schedule to this Act :

And whereas an Act intituled “*An Act relating to the Treaty of Washington, 1871*,” has been passed by the Parliament of *Canada* for the purpose of carrying into operation the said articles ;

And whereas an Act intituled “*An Act relating to the Treaty of Washington, 1871*,” has been passed by the Legislature of *Prince Edward’s Island*, for the purpose of carrying into operation the said articles ;

And whereas the Congress of the *United States of America* have not as yet passed any Act for carrying into operation on the part of the *United States* the said articles ;

And whereas it is expedient to make provision by Act of Parliament for carrying into operation the said articles,

Be it enacted, by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. As soon as the law required to carry into operation, on the part of the *United States of America*, the articles set out in the schedule to this Act has been passed by the Congress of the *United States* and come into force, all Acts of Parliament and laws which operate to prevent the said articles from taking full effect, shall so far as they so operate be suspended and have no effect during the period mentioned in the article numbered thirty-three in the schedule to this Act.

Suspension of
Acts at vari-
ance with
articles.

(*Sec. 2 provided for the extension of the articles in the schedule to Newfoundland.*)

3. This Act may be cited as “*The Treaty of Washington Act, 1872.*” Short Title.

SCHEDULE.

SCHEDULE.

Articles of the Treaty of Washington of the 8th May, 1871, which are referred to in the foregoing Act :

Article XVIII, which is set out in the schedule, gives to the inhabitants of the United States, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, of the sea fishing of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward's Island, provided that they do not interfere with the rights of private property, or with British fishermen, in the use of any part of the said coasts for the same purpose.

Article XIX, which is also set out in the schedule, gives similar rights to British subjects with respect to the fisheries on the eastern sea coasts and shores of the United States north of the 39th parallel.

Article XX provides that certain places reserved under the First Article of the Treaty between Great Britain and the United States, concluded at Washington on the 5th of June, 1854, from the common right of fishing under that Treaty, shall be regarded as reserved from the common right of fishing under the preceding articles, and provides also for the settling of disputes as to the common right of fishing.

ARTICLE XXI.

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish oil and fish of all kinds, (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the United States or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country respectively, free of duty.

Articles XXII—XXV, which are set out in the schedule, provide for the appointment and prescribe the mode of proceeding of Commissioners to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII.

ARTICLE XXX.

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, subjects of Her Britannic Majesty may

may carry in *British* vessels, without payment of duty, goods, wares, or merchandize from one port or place within the territory of the *United States* upon the St. Lawrence, the Great Lakes, and the rivers connecting the same, to another port or place within the territory of the *United States* as aforesaid : Provided, that a portion of such transportation is made through the Dominion of *Canada* by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her *Britannic* Majesty and the Government of the *United States*.

Citizens of the *United States* may for the like period carry in *United States* vessels, without payment of duty, goods, wares, or merchandize from one port or place within the Possessions of Her *Britannic* Majesty in *North America*, to another port or place within the said Possessions : Provided, that a portion of such transportation is made through the territory of the *United States* by land carriage and in bond under such rules and regulations as may be agreed upon between the Government of the *United States* and the Government of Her *Britannic* Majesty.

The Government of the *United States* further engages not to impose any export duties on goods, wares, or merchandize carried under this article through the territory of the *United States* ; and Her Majesty's Government engages to urge the Parliament of the Dominion of *Canada* and the Legislatures of the other colonies not to impose any export duties on goods, wares, or merchandize carried under this article ; and the Government of the *United States* may, in case such export duties are imposed by the Dominion of *Canada*, suspend, during the period that such duties are imposed, the right of carrying granted under this article in favour of the subjects of Her *Britannic* Majesty.

The Government of the *United States* may suspend the right of carrying granted in favour of the subjects of Her *Britannic* Majesty under this article in case the Dominion of *Canada* should at any time deprive the citizens of the *United States* of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

ARTICLE XXXI.

The Government of Her *Britannic* Majesty further engages to urge upon the Parliament of the Dominion of *Canada* and the Legislature of *New Brunswick*, that no export duty, or other duty, shall be levied on lumber or timber of any kind cut on that portion of the *American* territory in the State of *Maine* watered by the river St. John and its tributaries, and floated

floated down that river to the sea, when the same is shipped to the *United States* from the Province of *New Brunswick*. And in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this Treaty, it is agreed that the Government of the *United States* may suspend the right of carrying hereinbefore granted under Article XXX of this Treaty for such period as such export or other duty may be levied.

Article XXXII provided for the extension of the stipulations of Articles XVIII—XXV to Newfoundland.

ARTICLE XXXIII.

The foregoing Articles XVIII—XXV inclusive, and Article XXX of this Treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of *Great Britain*, by the Parliament of *Canada*, and by the Legislature of *Prince Edward's Island*, on the one hand, and by the Congress of the *United States* on the other. Such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the high contracting parties shall have been given notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

36 & 37 VICT., c. 60—1873.

An Act to amend the Extradition Act, 1870.

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act shall be construed as one with the Extradition Act, 1870, (in this Act referred to as the principal Act,) and the principal Act and this Act may be cited together as the Extradition Acts, 1870 and 1873, and this Act may be cited alone as the Extradition Act, 1873.

Construction of Act and short title.

2. Whereas by section six of the principal Act it is enacted as follows :

Explanation of sec. 6 of 33 & 34 V., c. 52.

“ Where this Act applies in the case of any foreign State every fugitive criminal of that State who is in or suspected of being in any part of Her Majesty's Dominions, or that part which is specified in the order applying this Act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's Dominions over that crime.”

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

A crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly.

3. Whereas a person who is accessory before or after the fact, or counsels, procures, commands, aids, or abets the commission of any indictable offence, is by *English* law liable to be tried and punished as if he were the principal offender, but doubts have arisen whether such person as well as the principal offender can be surrendered under the principal Act, and it is expedient to remove such doubts; it is therefore hereby declared that—

Liability of accessories to be surrendered.

Every

Every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed, for the purposes of the principal Act and this Act, to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly.

Explanation of
sec. 14 of 33 &
34 Vict., c. 52,
as to state-
ments on oath
including affir-
mations.

4. Be it declared, that the provisions of the principal Act relating to depositions and statements on oath taken in a foreign State, and copies of such original depositions and statements, do and shall extend to affirmations taken in a foreign State, and copies of such affirmations.

Power of tak-
ing evidence
in the United
Kingdom for
foreign crimi-
nal matters.

5. A Secretary of State may, by order under his hand and seal, require a Police Magistrate or a Justice of the Peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign State; and the Police Magistrate or Justice of the Peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

Every person who wilfully gives false evidence before a Police Magistrate or Justice of the Peace under this section shall be guilty of perjury.

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Explanation
of sec. 16 of 33
& 34 V., c. 52.

6. The jurisdiction conferred by section sixteen of the principal Act on a Stipendiary Magistrate and a Sheriff or Sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the Police Magistrate.

7. For the purposes of the principal Act and this Act a diplomatic representative of a foreign State shall be deemed to include any person recognised by the Secretary of State as a Consul-General of that State, and a Consul or Vice-Consul shall be deemed to include any person recognized by the Governor of a *British Possession* as a consular officer of a foreign State.

Explanation
of diplomatic
representative
and consul.

8. The principal Acts shall be construed as if there were included in the first schedule to that Act the list of crimes contained in the schedule to this Act.

Addition to list
of extraditable
crimes.

SCHEDULE.

List of Crimes.

The following list of crimes is to be construed according to the law existing in *England* or in a *British Possession* (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act :—

Kidnapping and false imprisonment.

Perjury and subornation of perjury, whether under common or statute law.

Any indictable offence under the Larceny Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, “To consolidate and amend the Statute Law of *England* and *Ireland* relating “to malicious injuries to property,” or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, “To consolidate and amend the Statute Law of *England* and *Ireland* relating to “indictable offences by forgery,” or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-nine, "To consolidate and amend the Statute Law of the United Kingdom against offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, "To consolidate and amend the Statute Law of *England and Ireland* relating to offences against the person," or any Act amending or substituted for the same which is not included in the first schedule to the principal Act.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act.

37 & 38 VICT., c. 27—1874.

An Act to regulate the Sentences imposed by Colonial Courts where jurisdiction to try is conferred by Imperial Acts.

Preamble.

WHEREAS by certain Acts of Parliament jurisdiction is conferred on courts in Her Majesty's colonies to try persons charged with certain crimes or offences, and doubts have arisen as to the proper sentences to be imposed upon conviction of such persons; and it is expedient to remove such doubts:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title

1. This Act may be cited for all purposes as The Courts (Colonial) Jurisdiction Act, 1874.

Definition of term "colony."

2. For the purposes of this Act,—

The term "colony" shall not include any places within the United Kingdom, the *Isle of Man*, or the *Channel Islands*, but shall include such territories as may for the time

time being be vested in Her Majesty by virtue of an Act of Parliament for the Government of *India*, and any plantation, territory, or settlement situate elsewhere within Her Majesty's Dominions, and subject to the same local government; and for the purposes of this Act, all plantations, territories, and settlements under a central legislature shall be deemed to be one colony under the same local government.

3. When, by virtue of any Act of Parliament now or hereafter to be passed, a person is tried in a court of any colony for any crime or offence committed upon the high seas or elsewhere out of the territorial limits of such colony and of the local jurisdiction of such court, or if committed within such local jurisdiction made punishable by that Act, such person shall, upon conviction, be liable to such punishment as might have been inflicted upon him if the crime or offence had been committed within the limits of such colony and of the local jurisdiction of the court, and to no other, anything in any Act to the contrary notwithstanding: Provided always that if the crime or offence is a crime or offence not punishable by the law of the colony in which the trial takes place, the person shall, on conviction, be liable to such punishment (other than capital punishment) as shall seem to the court most nearly to correspond to the punishment to which such person would have been liable in case such crime or offence had been tried in *England*.

At trials in any colonial courts by virtue of Imperial Acts, courts empowered to pass sentences as if crimes had been committed in the colony.

38 & 39 VICT., c. 38—1875.

An Act to remove certain doubts with respect to the powers of the Parliament of Canada under section eighteen of the British North America Act, 1867.

WHEREAS by section eighteen of the *British North America Act, 1867*, it is provided as follows: "The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of *Canada*, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of *Great Britain and Ireland*, and by the members thereof;"

30 & 31 Vict.,
c. 3, s. 18.

And

And whereas doubts have arisen with regard to the power of defining by an Act of the Parliament of *Canada*, in pursuance of the said section, the said privileges, powers, or immunities, and it is expedient to remove such doubts,—

Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Substitution of
new section for
section 18 of
30 & 31 Vict.,
c. 3.

1. Section eighteen of the *British North America Act, 1867*, is hereby repealed, without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed :

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of *Canada*, but so that any Act of the Parliament of *Canada* defining such privileges, immunities, and powers, shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act, held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of *Great Britain and Ireland*, and by the members thereof.

Confirmation
of Act of Par-
liament of
Canada.

2. The Act of the Parliament of *Canada*, passed in the thirty-first year of the reign of her present Majesty, chapter twenty-four, intituled : “An Act to provide for oaths to witnesses being administered in certain cases for the purposes of either House of Parliament,” shall be deemed to be valid, and to have been valid as from the date at which the royal assent was given thereto by the Governor General of the Dominion of *Canada*.

Short Title.

3. This Act may be cited as the Parliament of *Canada Act, 1875*.

38 & 39 VICT., c. 53—1875.

An Act to give effect to an Act of the Parliament of the Dominion of Canada respecting Copyright.

WHEREAS by order of Her Majesty in Council, dated the 7th day of July, 1868, it was ordered that all prohibitions contained in Acts of the Imperial Parliament against the importing into the Province of *Canada*, or against the selling, letting out to hire, exposing for sale or hire, or possessing therein foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, should be suspended so far as regarded *Canada*:

And whereas the Senate and House of Commons did, in the second session of the third Parliament of the *Dominion of Canada*, held in the thirty-eighth year of Her Majesty's reign, pass a bill intituled "An Act respecting copyrights," which bill has been reserved by the Governor General for the signification of Her Majesty's pleasure thereon:

And whereas by the said reserved bill provision is made, subject to such conditions as in the said bill are mentioned, for securing in *Canada* the rights of authors in respect of matters of copyright, and for prohibiting the importation into *Canada* of any work for which copyright under the said reserved bill has been secured; and whereas doubts have arisen whether the said reserved bill may not be repugnant to the said Order in Council, and it is expedient to remove such doubts and to confirm the said bill:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as The *Canada* Short Title of Act. Copyright Act, 1875.

2. In the construction of this Act the words "book" and "copyright" shall have respectively the same meaning as in the Act of the fifth and sixth years of Her Majesty's reign, chapter forty-five, intituled "An Act to amend the Law of Copyright." Definition of terms.

3. It shall be lawful for Her Majesty in Council to assent to the said reserved bill, as contained in the schedule to this Her Majesty may assent to the Bill in schedule. Act

Act annexed, and if Her Majesty shall be pleased to signify Her assent thereto, the said bill shall come into operation at such time and in such manner as Her Majesty may by Order in Council direct; anything in the Act of the twenty-eighth and twenty-ninth years of the reign of Her Majesty, chapter ninety-three, or in any other Act to the contrary notwithstanding.

Colonial re-prints not to be imported into United Kingdom.

4. Where any book in which, at the time when the said reserved bill comes into operation, there is copyright in the United Kingdom, or any book in which thereafter there shall be such copyright, becomes entitled to copyright in *Canada* in pursuance of the provisions of the said reserved bill, it shall be unlawful for any person, not being the owner, in the United Kingdom, of the copyright in such book, or some person authorized by him, to import into the United Kingdom any copies of such book reprinted or republished in *Canada*; and for the purposes of such importation the seventeenth section of the said Act of the fifth and sixth years of the reign of Her Majesty, chapter forty-five, shall apply to all such books in the same manner as if they had been reprinted out of the *British Dominions*.

Order in Council of 7th July, 1868, to continue in force subject to this Act.

5. The said Order in Council, dated the seventh day of July, one thousand eight hundred and sixty-eight, shall continue in force so far as relates to books which are not entitled to copyright for the time being in pursuance of the said reserved bill.

SCHEDULE.

An Act respecting Copyrights.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of *Canada*, enacts as follows:—

1. The Minister of Agriculture shall cause to be kept in his office books to be called the “Registers of Copyrights,” in which proprietors of literary, scientific, and artistic works or compositions, may have the same registered in accordance with the provisions of this Act.

2. The Minister of Agriculture may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations and prescribe such forms as may appear

appear to him necessary and expedient for the purposes of this Act; such regulations and forms, being circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act, and all documents executed and accepted by the said Minister of Agriculture shall be held valid so far as relates to all official proceedings under this Act.

3. If any person prints or publishes, or causes to be printed or published, any manuscript whatever, the said manuscript having not yet been printed in *Canada* or elsewhere, without the consent of the author or legal proprietor first obtained, such person shall be liable to the author or proprietor for all damages occasioned by such publication, to be recovered in any court of competent jurisdiction.

4. Any person domiciled in *Canada*, or in any of the *British Possessions*, or being a citizen of any country having an international copyright treaty with the United Kingdom, who is the author of any book, map, chart, or musical composition, or of any original painting, drawing, statue, sculpture, or photograph, or who invents, designs, etches, engraves, or causes to be engraved, etched, or made from his own design, any print or engraving, and the legal representatives of such person shall have the sole right and liberty of printing, reprinting, publishing, reproducing, and vending such literary, scientific, or artistic works or compositions, in whole or in part, and of allowing translations to be printed or reprinted and sold, of such literary works from one language into other languages, for the term of twenty-eight years from the time of recording the copyright thereof in the manner hereinafter directed:

- (2.) The condition for obtaining such copyright shall be that the said literary, scientific, or artistic works be printed and published, or reprinted or republished in *Canada*, whether they be so published or produced for the first time or contemporaneously with or subsequently to publication or production elsewhere; provided that in no case the exclusive privilege in *Canada* shall continue to exist after it has expired anywhere else.
- (3.) No immoral, or licentious, or irreligious, or treasonable, or seditious literary, scientific, or artistic work shall be the legitimate subject of such registration or copyright.

5. If at the expiration of the aforesaid term of twenty-eight years such author, or any of the authors where the work has been originally composed and made by more than one person, be still living, or being dead, has left a widow or a child or children living, the same exclusive right shall be continued to such author, or if dead, then to such widow and child or children

children (as the case may be), for the further term of fourteen years; but in such case, within one year after the expiration of the first term, the title of the work secured shall be a second time recorded, and all other regulations herein required to be observed in regard to original copyrights shall be complied with in respect to such renewed copyright.

6. In all cases of renewal of copyright under this Act the author or proprietor shall, within two months from the date of such renewal, cause a copy of the record thereof to be published once in the *Canada Gazette*.

7. No person shall be entitled to the benefit of this Act unless he has deposited in the office of the Minister of Agriculture, two copies of such book, map, chart, musical composition, photograph, print, cut, or engraving, and in case of paintings, drawings, statuary, and sculpture, unless he has furnished a written description of such works of art, and the Minister of Agriculture shall cause the copyright of the same to be recorded forthwith in a book to be kept for that purpose, in the manner adopted by the Minister of Agriculture, or prescribed by the rules and forms which may be made from time to time as hereinbefore provided.

8. The Minister of Agriculture shall cause one of the two copies of such book, map, chart, musical composition, photograph, print, cut, or engraving aforesaid, to be deposited in the library of the Parliament of *Canada*.

9. No person shall be entitled to the benefit of this Act unless he gives information of the copyright being secured, by causing to be inserted in the several copies of every edition published during the term secured, on the title page, or the page immediately following, if it be a book, or if a map, chart, musical composition, print, cut, engraving, or photograph, by causing to be impressed on the face thereof, or if a volume of maps, charts, music, engravings, or photographs upon the title page or frontispiece thereof, the following words; that is to say: "Entered according to Act of Parliament of *Canada*, in the year , by A. B., in the office of the Minister of Agriculture." But as regards paintings, drawings, statuary, and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship.

10. Pending the publication or republication in *Canada* of a literary, scientific, or artistic work, the author, or his legal representatives or assigns, may obtain an interim copyright by depositing in the office of the Minister of Agriculture a copy of the title or a designation of such work intended for publication or republication in *Canada*, the said title or designation

nation to be registered in an interim copyright register in the said office, to secure to the author aforesaid, or his legal representatives or assigns, the exclusive rights recognised by this Act, previous to publication or republication in *Canada*; the said interim registration however not to endure for more than one month from the date of the original publication elsewhere, within which period the work shall be printed or reprinted, and published in *Canada*.

- (2.) In all cases of interim registration under this Act, the author or proprietor shall cause notice of such registration to be inserted once in the *Canada Gazette*.
- (3.) A literary work intended to be published in pamphlet or book form, but which is first published in separate articles in a newspaper or periodical, may be the subject of registration within the meaning of this Act while it is so preliminarily published, provided that the title of the manuscript and a short analysis of the work are deposited in the office of the Minister of Agriculture, and that every separate article so published is preceded by the words "Registered in accordance with the Copyright Act, 1875," but the work, when published in book or pamphlet form, shall be subject, besides, to the other requirements of this Act.
- (4.) The importation of newspapers and magazines published in foreign countries, and containing, together with foreign original matter, portions of *British* copyright works republished with the consent of the author or his assigns under the law of the country where such copyright exists, shall not be prohibited.

11. If any other person, after the interim registration of the title of any book according to this Act, within the term herein limited, or after the copyright is secured, and for the or terms of its duration, prints, publishes, or reprints or republishes, or imports, or causes to be so printed, published, or imported, any copy or any translation of such book, without the consent of the person legally entitled to the copyright thereof, first had and obtained by assignment, or knowing the same to be so printed or imported, publishes, sells, or exposes for sale, or causes to be published, sold, or exposed for sale, any copy of such book without such consent, such offender shall forfeit every copy of such book to the person then legally entitled to the copyright thereof; and shall forfeit and pay for every such copy which may be found in his possession, either printed or printing, published, imported or exposed for sale, contrary to the intent of this Act, such sum not being less than ten cents nor more than one dollar as the court shall determine, of which penalty one moiety shall be

be to the use of Her Majesty, and the other to the legal owner of such copyright, and such penalty may be recovered in any court of competent jurisdiction.

12. If any person, after the recording of any painting, drawing, statue, or other work of art, within the term or terms limited by this Act, reproduces in any manner, or causes to be reproduced, made, or sold, in whole or in part, copies of the said works of art, without the consent of the proprietor or proprietors, such offender or offenders shall forfeit the plate or plates on which such reproduction has been made, and also every sheet thereof so copied, printed, or photographed, to the proprietor or proprietors of the copyright thereof, and shall further forfeit for every sheet of the same reproduction so published or exposed for sale, contrary to the true intent and meaning of this Act, such sum, not being less than ten cents nor more than one dollar, as the court shall determine; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recorded in any court of competent jurisdiction.

13. If any person, after the recording of any print, cut, or engraving, map, chart, musical composition, or photograph, according to the provisions of this Act, within the term or terms limited by this Act, engraves, etches or works, sells or copies, or causes to be engraved, etched or copied, made or sold, either in the whole or by varying, adding to, or diminishing the main design, with intent to evade the law, or prints, or reprints, or imports for sale, or causes to be so printed or imported for sale, any such map, chart, musical composition, print, cut, or engraving, or any part thereof, without the consent of the proprietor or proprietors of the copyright thereof, first obtained as aforesaid, or knowing the same to be so printed or imported, without such consent, publishes, sells, or exposes for sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, photograph or print, without such consent as aforesaid, such offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, photograph or print has been copied, and also every sheet thereof, so copied or printed as aforesaid, to the proprietor or proprietors of the copyright thereof, and shall further forfeit for every sheet of such map, musical composition, print, cut or engraving, which may be found in his or their possession, printed or published, or exposed for sale, contrary to the true intent and meaning of this Act, such sum not being less than ten cents nor more than one dollar, as the court shall determine; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered on any court of competent jurisdiction

14. Nothing herein contained shall prejudice the right of any person to represent any scene or object, notwithstanding that there may be copyright in some other representation of such scene or object.

15. Works of which the copyright has been granted and is subsisting in the United Kingdom, and copyright of which is not secured or subsisting in *Canada* under any *Canadian* or Provincial Act, shall, upon being printed and published or reprinted and republished in *Canada*, be entitled to copyright under this Act; but nothing in this Act shall be held to prohibit the importation from the United Kingdom of copies of such works legally printed there.

(2.) In the case of the reprinting of any such copyright work subsequent to its publication in the United Kingdom any person who may have, previous to the date of entry of such work upon the registers of copyright, imported any foreign reprints, shall have the privilege of disposing of such reprints by sale or otherwise; the burden of proof, however, in such a case will lie with such person to establish the extent and regularity of the transaction.

16. Whenever the author of a literary, scientific, or artistic work or composition, which may be the subject of copyright, has executed the same for another person, or has sold the same to another person for due consideration, such author shall not be entitled to obtain or to retain the proprietorship of such copyright, which is by the said transaction virtually transferred to the purchaser who may avail himself of such privilege, unless a reserve of the said privilege is specially made by the author or artist in a deed duly executed.

17. If any person, not having legally acquired the copyright of a literary, scientific, or artistic work, inserts in any copy thereof printed, produced, reproduced or imported, or impresses on any such copy, that the same hath been entered according to this Act, or words purporting to assert the existence of a *Canadian* copyright in relation thereto, every person so offending shall incur a penalty not exceeding three hundred dollars (one moiety whereof shall be paid to the person who sues for the same, and the other moiety to the use of Her Majesty), to be recovered in any court of competent jurisdiction.

(2.) If any person causes any work to be inserted in the Register of Interim Copyright, and fails to print and publish, or reprint and republish the same within the time prescribed, he shall incur a penalty not exceeding one hundred dollars (one moiety whereof shall be paid to

to the person who sueth for the same, and the other moiety to the use of Her Majesty), to be recovered in any court of competent jurisdiction.

18. The right of an author of a literary, scientific, or artistic work, to obtain a copyright, and the copyright when obtained shall be assignable in law, either as to the whole interest or any part thereof, by an instrument in writing made in duplicate, and to be recorded in the office of the Minister of Agriculture, on production of both duplicates and payment of the fee hereinafter provided. One of the duplicates shall be retained in the office of the Minister of Agriculture, and the other returned, with the certificate of registration, to the party depositing it.

19. In case of any person making application to register as his own the copyright of a literary, scientific, or artistic work, already registered in another person's name, or in case of simultaneous conflicting applications, or of an application made by any person other than the person entered as proprietor of a registered copyright, to cancel the said copyright, the party so applying shall be notified that the question is to be settled before a court of competent jurisdiction, and no further proceedings shall be had concerning the subject before a judgment is produced, maintaining, cancelling, or otherwise settling the matter; and this registration, or cancellation, or adjustment of the said right, shall then be made by the Minister of Agriculture in accordance with such decision.

20. Clerical errors happening in the framing or copying of any instrument drawn in the office of the Minister of Agriculture shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the Minister of Agriculture.

21. All copies or extracts certified from the office of the Minister of Agriculture shall be received in evidence without further proof, and without production of the originals.

22. Should a work copyrighted in *Canada* become out of print, a complaint may be lodged by any person with the Minister of Agriculture, who, on the fact being ascertained to his satisfaction, shall notify the copyright owner of the complaint and of the fact; and if, within a reasonable time, no remedy is applied by such owner, the Minister of Agriculture may grant a license to any person to publish a new edition or to import the work, specifying the number of copies and the royalty to be paid on each to the copyright owner.

23. The application for the registration of an interim copyright, of a temporary copyright, and of a copyright, may be made

made in the name of the author or of his legal representative by any person purporting to be the agent of the said author, and any fraudulent assumption of such authority shall be a misdemeanour, and shall be punished by fine and imprisonment accordingly; and any damage caused by a fraudulent or an erroneous assumption of such authority shall be recoverable before any court of competent jurisdiction.

24. If any person shall wilfully make, or cause to be made, any false entry in the registry books of the Minister of Agriculture, or shall wilfully produce, or cause to be tendered, in evidence, any paper falsely purporting to be a copy of an entry in the said books, he shall be guilty of a misdemeanour, and shall be punished accordingly.

25. If a book be published anonymously, it shall be sufficient to enter it in the name of the first publisher thereof, either on behalf of the unnamed author, or on behalf of such first publisher as the case may be.

26. It shall not be requisite to deliver any printed copy of the second or of any subsequent edition of any book or books, unless the same shall contain very important alterations or additions.

27. No action or prosecution for the recovery of any penalty under this Act shall be commenced more than two years after the cause of action arose.

The following fees shall be payable to the Minister of Agriculture before an application for any of the purposes hereinafter mentioned shall be entertained; that is to say,

	\$	c.
On registering a copyright	1	00
On registering an interim copyright	0	50
On registering a temporary copyright	0	50
On recording an assignment.....	1	00
On certified copy of registration.....	0	50
On registering any decision of a Court of Justice, for every folio	0	50

On office copies of documents not above mentioned, the following charges shall be made:

	\$	c.
For every single or first folio certified copy ...	0	50
For every subsequent one hundred words (fractions from and under fifty being not counted, and over fifty being counted for one hundred).....	0	25

(2.) The said fees shall be in full of all services performed under this Act by the Minister of Agriculture or by any person employed by him in pursuance of this Act.

(3.) All fees received under this Act shall be paid over to the Receiver General and form part of the Consolidated Revenue fund of Canada. No fees shall be made the subject of exemption in favour of any person, and no fee exacted by this Act, once paid, shall be returned to the person who paid it.

28. "The Copyright Act of 1868," being the Act thirty-first Victoria, chapter fifty-four, and all other Acts or parts of Acts inconsistent with the provisions of this Act, are hereby repealed, subject to the provisions of the next following section.

29. All copyrights heretofore acquired under the Acts, or parts of Acts repealed shall, in respect of the unexpired terms thereof, continue unimpaired and shall have the same force and effect as regards the province or provinces to which they now extend, and shall be assignable and renewable, and all penalties and forfeitures incurred and to be incurred under the same may be sued for and enforced, and all prosecutions commenced before the passing of this Act for any such penalties or forfeitures already incurred may be continued and completed as if such Acts were not repealed.

30. In citing this Act it shall be sufficient to call it "The Copyright Act of 1875."

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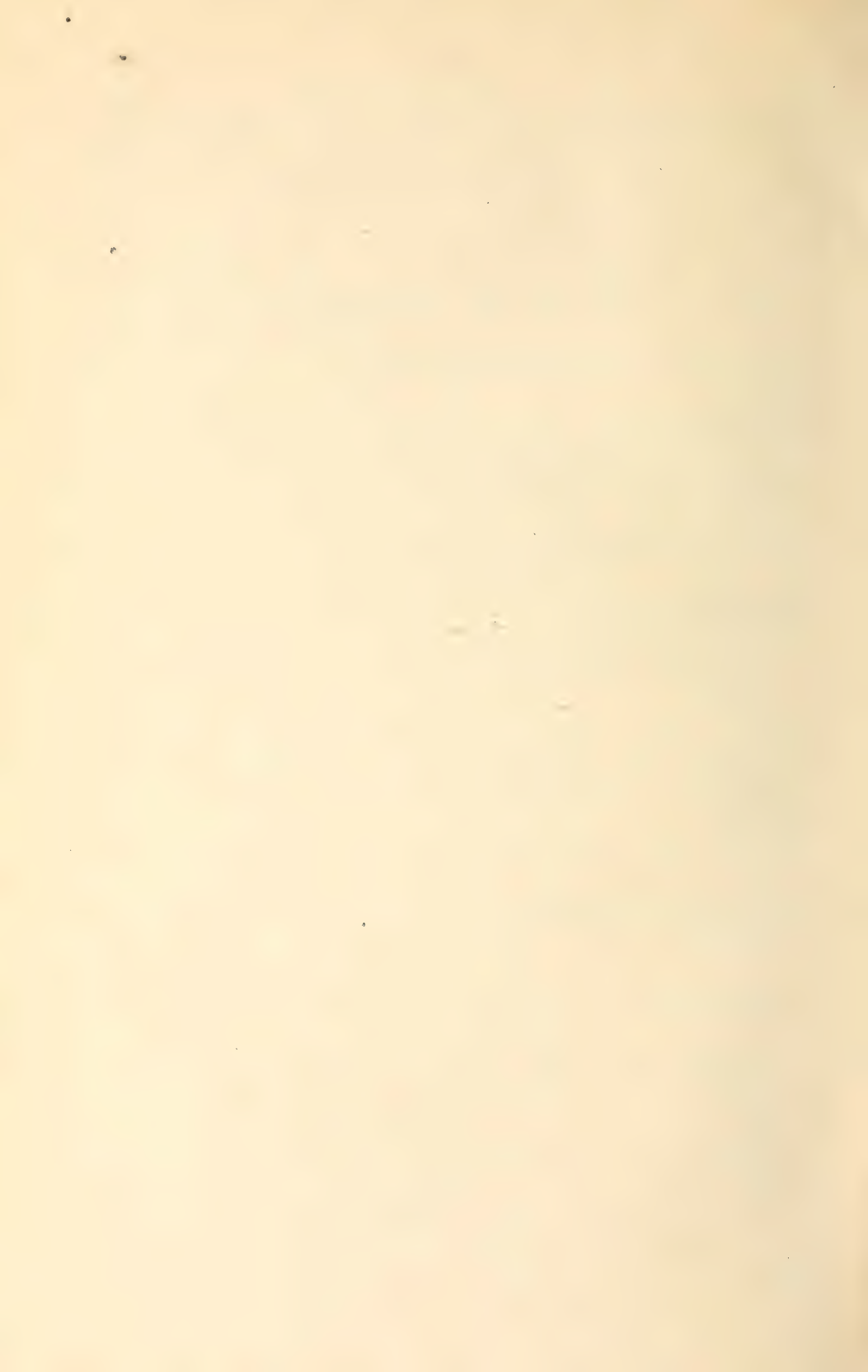
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special

STATUTES
OF THE
PROVINCE OF CANADA
AND
DOMINION OF CANADA
AFFECTING ONTARIO.

STATUTES
OF THE
PROVINCE OF CANADA
AND
DOMINION OF CANADA.

COMPRISING THOSE PORTIONS OF THE CONSOLIDATED STATUTES OF CANADA
AND UPPER CANADA, AND OF THE STATUTES OF THE
PROVINCE OF CANADA

STILL IN FORCE IN ONTARIO, AND WHICH ARE SUPPOSED
TO RELATE TO MATTERS NOT WITHIN THE
JURISDICTION OF THE PROVINCIAL
LEGISLATURE OF ONTARIO,

AND

THOSE STATUTES OF THE DOMINION OF CANADA, WHICH AFFECT ONTARIO, UP TO AND
INCLUSIVE OF THOSE PASSED IN 1875 (33 VICTORIA).

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CANADA STATUTES.

TITLE I.

PRELIMINARY.

FORM AND INTERPRETATION OF STATUTES.

31 VICT. CAP. 1.*

An Act respecting the Statutes of Canada

[Assented to 21st December, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

FORM OF ENACTING.

1. The following words, may be inserted in the Preambles of Statutes and shall indicate the authority by virtue of which they are passed : " Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows : "

Form of enacting clause.

2. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall with these considerations or reasons constitute the entire Preamble, the various clauses of the Statute shall follow in a concise and enunciative form. *See C. S. C. c. 5, s. 2, which is identical with this section.*

Other clauses to follow in concise form.

* Of the Interpretation Acts applicable to these volumes, viz., 31 V. c. 1, 22 V. c. 29, C. S. Can. c. 5, and C. S. U. C. c. 2, only the above Act, 31 V. c. 1 is printed entire. Whenever sections of the other Acts are identical with those of 31 V. c. 1. they are referred to at the foot of those of its sections to which they respectively answer. Those clauses of 22 V. c. 29, C. S. Can. c. 5, and C. S. U. C. c. 2, which are not identical with any provision of 31 V. c. 1, are printed in full, and will be found immediately following the above Act.

INTERPRETATION.

The interpretation clauses to apply to all Acts hereafter passed.

3. This section and the fourth, fifth, sixth, seventh and eighth sections of this Act, and each provision thereof, shall extend and apply to every Act passed in the Session held in this *thirtieth** year of Her Majesty's Reign, and in any future Session of the Parliament of Canada, except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context,—and except in so far as any provision thereof is in any such Act declared not applicable thereto;—Nor shall the omission in any Act of a declaration that the “Interpretation Act” shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session.

Date of Royal assent to be endorsed on every Act.

4. The *Clerk of the Senate* shall endorse on every Act of the Parliament of Canada, immediately after the title of such Act, the day, month and year when the same was by the Governor-General assented to in Her Majesty's name, or reserved by him for the signification of Her Majesty's pleasure thereon,—and in the latter case, the *Clerk of the Senate* shall also endorse thereon the day, month and year when the Governor-General has signified either by speech or message to the Senate and House of Commons, or by Proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same:—And such indorsement shall be taken to be a part of such Act, and the date of such Assent or Signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement be therein provided.

Effect of such endorsement.

The Clerk of the Parliaments was substituted for the Clerk of the Senate, by 35 V. c. 1, sec. 1.

Every Act may be amended during session in which it passes

5. Any Act of the Parliament of Canada may be amended, altered or repealed by any Act to be passed in the same Session thereof.

How enactments shall be construed.

6. In construing this or any Act of the Parliament of Canada, unless it is otherwise provided, or there be some thing in the context or other provisions thereof indicating a different meaning or calling for a different construction :

To apply to the whole Dominion.

(1.) The enactments in any Act apply to the whole Dominion of Canada ;

* A mistake, corrected by 31 V. c. 28, sec. 1 to “*thirty-first*.”

(2.) The Law is to be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning. *See 22 V. c. 29, sec. 13 (2) which is identical with this sub-section.*

Application of expressions in present tense.

(3.) The word "shall" is to be construed as imperative, and the word "may" as permissive. *See C. S. U. C. c. 2, sec. 18 (2) and 22 V. c. 29, sec. 13 (3) which are identical with this sub-section.*

"Shall" and "may."

(4.) Whenever the word "herein" is used in any section of an Act, it is to be understood to relate to the whole Act and not to that section only. *See C. S. U. C. c. 2, sec. 18 (3) and 22 V. c. 29, sec. 13 (4) which are identical with this sub-section.*

7. Subject to the limitations aforesaid,—in every Act of the Parliament of Canada, to which this section applies:—

Interpretation of certain words.

First. The words "Her Majesty," "the Queen," or "the Crown," shall mean—Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland. *See C. S. C. c. 5, s. 6 (1) which is identical with this sub-section.*

"Her Majesty," &c.

Secondly. The words "Governor," "Governor of Canada," "Governor-General" or "Governor in Chief," shall mean—the Governor-General for the time being of Canada, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of Canada, on behalf and in the name of the Queen by whatever title he is designated.

"Governor," &c.

Thirdly. The words "Governor in Council," or "Governor-General in Council," shall mean—the Governor-General of Canada, or person administering the Government of Canada for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the Queen's Privy Council for Canada.

"Governor in Council, &c."

Fourthly. The words "Lieutenant-Governor" shall mean the Lieutenant-Governor for the time being, or other chief Executive officer or Administrator for the time being, carrying on the Government of the Province or Provinces of the Dominion indicated by the Act, by whatever title he is designated.

"Lieutenant-Governor, &c."

Fifthly. The words "Lieutenant-Governor in Council" shall mean the Lieutenant-Governor or person administering the Government of the Province indicated by the Act, for the time being, acting by and with the advice of, or by and with

"Lieutenant-Governor in Council, &c."

the advice and consent of, or in conjunction with the Executive Council of the said Province.

"United Kingdom," "United States," names of places, &c.

Sixthly. The words "the United Kingdom," shall mean the United Kingdom of Great Britain and Ireland;—and the words "the United States" shall mean the United States of America;—And generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof. *See C. S. C. c. 5, s. 6 (6) which is identical with this sub-section.*

Proclamation.

Seventhly. The word "Proclamation" means a Proclamation under the Great Seal, and the expression "Great Seal" means the Great Seal of Canada.

Governor acting by Proclamation.

Eighthly. When the Governor is authorized to do any act by Proclamation, such Proclamation is understood to be a Proclamation issued under an order of the Governor in Council, but it shall not be necessary that it be mentioned in the Proclamation that it is issued under such order.

"County."

Ninthly. The word "County" includes two or more Counties united for purposes to which the enactment relates. *See 22 V. c. 29, sec. 13 (8) which is identical with this sub-section.*

Number and gender.

Tenthly. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse. *See C. S. C. c. 5, s. 6 (7); C. S. U. C. c. 2, s. 10, which are identical with this sub-section.*

"Person."

Eleventhly. The word "person" shall include any body corporate and politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of Canada to which such context extends.

"Writing," "written."

Twelfthly. The words "writing," "written," or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied. *See C. S. C. c. 5, s. 6 (9) which is identical with this sub-section.*

"Now" or "next."

Thirteenthly. The word "now" or "next" shall be construed as having reference to the time when the Act was presented for the Royal Assent. *See C. S. C. c. 5, s. 6 (10) which is identical with this sub-section.*

Fourteenthly. The word "month" shall mean a calendar "Month." month. See *C. S. C. c. 5, s. 6 (11) which is identical with this sub-section.*

Fifteenthly. The word "holiday" shall include Sundays, "Holiday." New Year's day, the Epiphany, the Annunciation, Good-Friday, the Ascension, Corpus Christi, St. Peter and St Paul's Day, All Saints' Day, Conception Day, Easter Monday, Ash Wednesday, Christmas Day, the Birth-day of the reigning Sovereign, and any day appointed by Proclamation for a General Fast or Thanksgiving.

For "Holidays" as regards Bills and Notes see 35 V. c. 8, sec. 8.

Sixteenthly. The word "oath" shall be construed as mean- "Oath." ing a solemn affirmation whenever the context applies to any person and case by whom and in which a solemn affirmation may be made instead of an oath, and in like cases the word "sworn" shall include the word "affirmed":—And in every "Sworn." case where an oath or affirmation is directed to be made before any "Affirmed." person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made;—And the wilful making of any false statement in any Perjury. such oath or affirmation, shall be wilful and corrupt perjury;—and the wilful making of any false statement in any declaration required or authorized by any Act, shall be a misdemeanor punishable as wilful and corrupt perjury.

Seventeenthly. The word "sureties" shall mean sufficient sure- "Sureties," ties, and the word "security" shall mean sufficient security, "Security," and where these words are used, one person shall be sufficient therefor unless otherwise expressly required.

Eighteenthly. The words "Superior Courts" shall denote in "Superior Courts." the Province of Ontario, the Court of Queen's Bench, the Court of Common Pleas and the Court of Chancery in the said Province. *Remainder of this sub-section does not relate to Ontario.*

By 38 V., c. 1, s. 2, the Court of Error and Appeal is added to the Courts which are above stated to be denoted by the words "Superior Courts."

Nineteenthly. The words "Registrar" or "Register" in any "Registrar," Act, applying to the whole Dominion, shall mean and include "Register." indifferently Registrars and Registers in the several Provinces constituting the Dominion, and their Deputies, respectively.

Twentiethly. Any wilful contravention of any Act, which is Contravention of Acts. not made any offence of some other kind, shall be a misdemeanor, and punishable accordingly.

Punishment
for contraven-
tion.

Twenty-firstly. Whenever any wilful contravention of any Act is made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable.

Recovery of
penalties when
no other mode
is prescribed.

Twenty-secondly. Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any Act,—then, if no other mode be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself,—in any form allowed in such case by the law of that Province where it is brought,—before any court having jurisdiction to the amount of the penalty in cases of simple contract,—upon the evidence of any one credible witness other than the plaintiff or party interested; and if no other provision be made for the appropriation of such penalty or forfeiture, one-half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none the whole shall belong to the Crown.

Appropriation.

Crown's share
when not
otherwise ap-
propriated to
form part of
Con. Rev.
Fund.

Twenty-thirdly. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is by any Act given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of Canada, and be accounted for and otherwise dealt with accordingly.

Paying and
accounting for
moneys appro-
priated by
statute.

Twenty-fourthly. If any sum of the public money be, by any Act, appropriated for any purpose or directed to be paid by the Governor-General,—then, if no other provision be made respecting it, such sum shall be payable under warrant of the Governor-General directed to the Receiver-General, out of the Consolidated Revenue Fund of Canada; and all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such Officer, as the Governor-General may direct.

"Magistrate,"
"Two Jus-
tices."

Twenty-fifthly. The word "Magistrate" shall mean a Justice of the Peace; the words "two Justices," shall mean two or more Justices of the Peace, assembled or acting together;—and if any thing is directed to be done by or before a Magistrate or a Justice of the Peace, or other Public Functionary or Officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done:—And whenever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such

Power to do
anything to
include all ne-
cessary powers
for doing it.

act or thing. *See C. S. C. c. 5, sec. 6 (20) which is identical with this sub-section.*

Twenty-sixthly. If in any Act, any party is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place be mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there be no common gaol there, then in or to that common gaol which is nearest to such locality; and the keeper of any such common gaol shall receive such person, and him safely keep and detain in such common gaol under his custody until discharged in due course of Law, or bailed in cases in which bail may by Law be taken.

Imprisonment where to be, when no special place is mentioned.

Twenty-seventhly. Words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, re-appointing him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested. *See C. S. C. c. 5, sec. 6 (22) which is identical with this sub-section.*

Words giving power to appoint include power to remove.

Twenty-eighthly. Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his Name of Office, shall include his successors in such Office, and his or their lawful Deputy. *See C. S. C., c. 5, sec. 6 (23) which is identical with this sub-section.*

Directions to public officer, to apply to his successors and his deputy.

Twenty-ninthly. All officers now appointed or hereafter to be appointed by the Governor-General, whether by Commission or otherwise shall remain in office during pleasure only, unless otherwise expressed in their Commissions or appointments.

Appointments by Governor to be during pleasure.

Thirtiethly. Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation, power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the Corporation the power to bind the others by their acts; and shall exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them;—But no Corporation shall carry on the business of banking unless when such power is expressly conferred on them by the Act creating such Corporation. *See C. S. C. c. 5, sec. 6 (24) which is identical with this sub-section.*

Words constituting a corporation to vest certain powers in it.

Thirty-firstly. Where forms are prescribed slight deviations therefrom not affecting the substance or calculated to mislead shall not vitiate them.

Slight deviation from forms not to invalidate

Thirty-secondly. Where power to make by-laws, regulations, rules or orders is conferred, it shall include the power to alter or revoke the same and make others.

Thirty-thirdly. No provision or enactment in any Act, shall affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or successors, unless it is expressly stated therein, that Her Majesty shall be bound thereby; nor if such Act be of the nature of a private Act, shall it affect the rights of any person or of any body politic, corporate or collegiate, such only excepted as are therein mentioned or referred to.

Thirty-fourthly. Every Act shall be so construed as to reserve to Parliament the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by Parliament to be required for the public good; And unless it is otherwise expressly provided in any Act passed for chartering any Bank, it shall be in the discretion of the Parliament at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as to Parliament appears expedient.

Thirty-fifthly. Where any Act is repealed wholly or in part and other provisions substituted, all officers, persons, bodies politic or corporate acting under the old law shall continue to act as if appointed under the new law, until others are appointed in their stead; and all proceedings taken under the old law shall be taken up and continued under the new law when not inconsistent therewith; and all penalties and forfeitures may be recovered, and all proceedings had in relation to matters which have happened before the repeal in the same manner as if the law were still in force, pursuing the new provisions as far as they can be adapted to the old law.

Thirty-sixthly. The repeal of an Act at any time shall not affect any act done or any right or right of action existing, accruing, accrued or established or any proceedings commenced in a civil cause, before the time when such repeal shall take effect; but the proceedings in such case shall be conformable when necessary to the repealing Act.

Thirty-seventhly. No offence committed and no penalty or forfeiture incurred and no proceeding pending under any Act at any time repealed shall be affected by the repeal, except that the proceedings shall be conformable when necessary to the repealing Act, and that where any penalty, forfeiture or punishment shall have been mitigated by any of the provisions of the repealing Act, such provisions shall be extended and applied to any judgment to be pronounced after such repeal.

Thirty-eighthly. Every Act shall, unless by express provision it is declared to be a Private Act, be deemed to be a Public Act, and shall be judicially noticed by all Judges, Justices of the Peace and others, without being specially pleaded; And all copies of Acts, public or private, printed by the Queen's printer, shall be evidence of such Acts and of their contents, and every copy purporting to be printed by the Queen's printer shall be deemed to be so printed, unless the contrary be shewn.

All Acts to be deemed Public Acts, as regards pleading.

Proof of Acts.

Thirty-ninthly. The Preamble of every such Act as aforesaid shall be deemed a part thereof intended to assist in explaining the purport and object of the Act;—And every Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which Parliament deems to be for the public good or to prevent or punish the doing of any thing which it deems contrary to the public good,—and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act, and of such provision or enactment according to their true intent, meaning and spirit.

Preamble to be a part of Act.

All Acts remedial, and to be construed as such.

Fortiethly. Nothing in this Section shall exclude the application to any Act, of any Rule of Construction applicable thereto, and not inconsistent with this Section.

Applicable rules of construction not excluded.

Forty-firstly. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein.

Provisions herein to apply to this Act.

8. When any act or thing is required to be done by more than two persons, a majority of them may do it. *See 22 V. c. 29, sec. 13 (5) which is identical with this sub-section.*

Acts to be done by more than two.

DISTRIBUTION OF THE PRINTED STATUTES.

9. The *Clerk of the Senate* shall furnish Her Majesty's Printer with a certified copy of every Act of the Parliament of Canada, so soon as the same has received the Royal Assent, or if the Bill has been reserved, so soon as the Royal Assent thereto has been proclaimed in Canada.

Certified copy of every Act to be furnished to Queen's Printer.

The Clerk of the Parliaments now performs this duty under 35 V. c. 1, sec. 1.

Sections 10 and 11 were repealed by 38 V. c. 1, sec. 1, and the following substituted:—

10. "The Acts of the Parliament of Canada passed in the present or any future session thereof, shall be printed in two separate volumes, the first of which shall contain such of the said Acts and such Orders in Council and Proclamations or other documents, and such Acts of the Parliament of the United Kingdom, as the Governor in Council may deem to be of a public and general nature or interest in Canada, and may direct to be inserted in the said volume; and the second volume shall contain the remaining Acts of the session and shall be printed after the first

Acts to be printed in two separate volumes: what each shall contain.

- Copies of each volume to be printed. volume. Copies of the said volumes shall be printed in the English and French languages respectively by the Queen's Printer, who shall, as soon after the close of each Session as may be practicable, deliver or send by post or otherwise in the most economical manner, the proper number of copies to the parties hereinafter mentioned respectively, and in either or both languages, as he may be directed, that is to say—
- Distribution of copies. “To the members of the two Houses of Parliament respectively, such number of copies each as may, from time to time be directed by joint resolution of the said Houses, or, in default of such resolution, in such numbers as shall be directed by Order of the Governor in Council,—and to such public departments, administrative bodies and officers throughout Canada (including justices of the peace in the distribution of the first but not of the second volume), as may be specified in any Order to be for that purpose made from time to time by the Governor in Council :
- Proviso as to Bills assented to during a session. “Provided that when any Bill receives the Royal Assent during and before the termination of any session of Parliament, the Queen's Printer shall, if so directed by the Secretary of State of Canada, cause distribution of such Act to be made, to the same parties and in like manner and numbers as hereinbefore provided with respect to the Acts of any session ; or such Act may, by order of the Governor, be published in the *Canada Gazette*, and printed afterwards in the proper volume of the Statutes.”
- Duties of the Secretary of State. **11.** “The Secretary of State of Canada shall within fifteen days after the close of each session of Parliament, transmit to the Queen's Printer a list of the public departments, administrative bodies and officers to whom the first and second volumes respectively, of the Statutes of such session are to be transmitted as aforesaid, and shall also, as occasion requires, furnish him with copies of all Orders in Council made under the provisions of this Act.”
- If any copies remain, &c. **12.** If after the distribution of the said printed Acts any copies remain in the hands of Her Majesty's Printer, he may deliver any number thereof to any person by order of the Governor-General, on notice thereof by the Secretary of State of Canada,—or to the Members of the Senate or of the House of Commons, on the order of the Speaker of the said Houses respectively.
- How Statutes shall be printed and bound. **13.** The Statutes shall be printed in Royal Octavo Form, on fine paper, in Small Pica Type, thirty-two ems by fifty-five ems, including marginal notes in Minion, such notes referring to the year and chapter of previous Statutes, whenever the text amends, repeals or changes the enactments of former years ; and shall be half-bound in Cloth with backs of White Sheep skin and lettered, with the exception of a certain number to be named by the Standing Committee on Printing which shall be bound in half calf and gilt-lettered, and they shall be arranged for distribution in such manner either by the binding of the Public General Acts, and Acts of a local or private character in separate volumes, or by binding them together in the same volumes with separate indexes or otherwise as the Governor in Council may deem expedient.
- Classification of Statutes.
- Report by Printer as to number of copies distributed. **14.** Her Majesty's Printer shall, before the opening of each Session of Parliament, make a Report in triplicate to the Governor-General (to be by him laid before each House of Parliament within fifteen days after the opening of such Session),

shewing the number of copies of the Acts of each Session which have been printed and distributed by him since the then last Session,—and the Departments, Administrative Bodies, Officers and persons to whom the same have been distributed, the number of copies delivered to each, and under what authority, and the numbers of copies of the Acts of each Session then remaining in his hands,—and containing also a detailed account of the expenses by him actually incurred in carrying this Act into effect, to the end that provision may be made for defraying the same, after such account has been duly audited and allowed.

And as to expense incurred by him.

15. The party obtaining an Act of a private or personal character shall furnish, at his own cost, one hundred and fifty printed copies of such Act to the Government of Canada.

Obligations of parties obtaining private Acts.

SHORT TITLE.

16. This Act may be cited as “The Interpretation Act.”

Short title.

22 VICT. CAP. 29.

An Act respecting the Consolidated Statutes of Canada.

[Assented to 4th May, 1859.]

Those provisions of this Act which are identical with clauses of 31 V. c. 1, are indicated by numbers and references to the sections or sub-sections of 31 V. c. 1, supra, to which they respectively correspond.

WHEREAS it has been found expedient to revise, Preamble
classify and consolidate the Public General Statutes which apply to the whole Province of Canada;—And whereas such revision, classification and consolidation have been made accordingly; And whereas it is expedient to provide for the incorporation therewith of the Public General Statutes passed during the present Session in so far as the same affect the whole Province, and for giving the force of law to the body of Consolidated Statutes to result from such incorporation: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The printed Roll attested as that of the said Statutes so revised, classified and consolidated as aforesaid, under the signature of His Excellency the Governor-General, that of the Clerk of the Legislative Council and that of the Clerk of the Legislative Assembly, and deposited in the office of the Clerk

Original Roll of Statutes revised, &c., to be certified and deposited.

As to marginal notes, misprints, &c.

of the Legislative Council, shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as to be repealed in the Schedule A thereto annexed; but the marginal notes thereon, and the references to former enactments at the foot of the several sections thereof form no part of the said Statutes and shall be held to have been inserted for convenience of reference only, and may be omitted or corrected, and any mis-print or clerical error in the said roll may also be corrected,—in the Roll hereinafter mentioned.

Governor may cause the legislation of this Session to be incorporated with the Statutes in the said Roll.

2. The Governor may select such Acts and parts of Acts passed during the present Session, as he may deem it advisable to incorporate with the said Statutes contained in the said first mentioned Roll, and may cause them to be so incorporated therewith, adapting their form and language to those of the said Statutes (but without changing their effect), inserting them in their proper places in the said Statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the present Session so incorporated as aforesaid; and the Governor may direct that all sums of money stated in the said Roll in Halifax currency, be converted into dollars and cents, in all cases where it can be conveniently done.

Certified Roll including the legislation of the present Session to be deposited and serve as the original thereof.

3. So soon as the said incorporation of such Acts and parts of Acts with the said Statutes, and the said addition to the said Schedule A shall have been completed, the Governor may cause a correct printed Roll thereof attested under his signature and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the Legislative Council, which Roll shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed; any marginal notes however, and references to former enactments which may appear thereon being held to form no part of the said Statutes, but to be inserted for convenience of reference only.

Proclamation for bringing the Consolidated Statutes into force on a certain day.

4. The Governor in Council, after such deposit of the said last mentioned Roll, may, by Proclamation, declare the day on, from and after which the same shall come into force and have effect as law by the designation of "The Consolidated Statutes of Canada."

By proclamation dated 9th November 1859, the Governor-General (Sir Edmund Head) declared the 5th December, 1859, as the day when the Consolidated Statutes of Canada should come into effect.

On and after that day;

5. On, from and after such day, the same shall accordingly come into force and effect as and by the designation of

“The Consolidated Statutes of Canada,” to all intents as though the same were expressly embodied in and enacted by this Act, to come into force and have effect on, from and after such day; and on, from and after the same day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned as repealed shall stand and be repealed—save only as hereinafter is provided.

they shall be in force—and the enactments embodied in them repealed.

Exception.

6. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them: nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts, or the application of any of the said Acts or parts of Acts or of any Act or provision of law formerly in force,—to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply.

Saving as to transactions, &c., anterior to the repeal.

7. The repeal of the said Acts and parts of Acts shall not affect—

Certain matters anterior to the repeal not to be affected by it,—

1. Any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal,—

Penalties, &c.

2. Nor any indictment, information, conviction, sentence or prosecution had, done, completed or pending at the time of such repeal,—

Indictments, &c.

3. Nor any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever respecting the same, had, done, made, entered, granted, completed, pending, existing, or in force at the time of such repeal,—

Actions, &c.

4. Nor any act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter or thing, had, done, made, acquired, established or existing at the time of such repeal,—

Acts, deeds, rights, &c.

5. Nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto, at the time of such repeal,—

Offices, &c.

6. Nor any marriage, certificate or registry thereof, lawfully had, made, granted or existing before or at the time of such repeal,—

Marriages, &c.

7. Nor shall such repeal defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal;

Any other matters, &c.

But the same
shall remain
valid, &c.

8. But every

Such penalty, forfeiture and liability, and every such

Indictment, information, conviction, sentence and prosecution,
and every such

Action, suit, judgment, decree, certificate, execution, process,
order, rule, proceeding, matter or thing, and every such

Act, deed, right, title, interest, grant, assurance, descent,
will, registry, contract, lien, charge, matter or thing, and
every such

Office, appointment, commission, salary, allowance, security
and duty, and every such

Marriage, certificate and registry, and every such other matter
and thing, and the force and effect thereof, respectively,

And may be
enforced, &c.,
and under
what laws.

May and shall, both at law and in equity, remain and continue as if no such repeal had taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Consolidated Statutes and other the Statutes and Laws having force in this Province, so far as applicable thereto, and subject to the provisions of the said several Statutes and Laws.

Consolidated
Statutes not to
be deemed new
Laws.

8. The said Consolidated Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Consolidated Statutes are substituted.

How construed
if in any case
they differ
from the re-
pealed Acts,
&c.

9. But if upon any point the provisions of the said Consolidated Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then as respects all transactions, matters and things subsequent to the time when the said Consolidated Statutes take effect, the provisions contained in them shall prevail, but as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

As to refer-
ences to re-
pealed Acts, in
former Acts,
&c.

10. Any reference in any former Act remaining in force, or in any instrument or document, to any Act or enactment so repealed, shall after the Consolidated Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Consolidated Statutes having the same effect as such repealed Act or enactment.

As to effect of
insertion of an

11. The insertion of any Act in the said Schedule A shall not be construed as a declaration that such Act or any part of

it was or was not in force immediately before the coming into force of the said Consolidated Statutes. Act in Schedule A.

12. Copies of the said Consolidated Statutes printed by the Queen's Printer from the amended Roll so deposited, shall be received as evidence of the said Consolidated Statutes in all Courts and places whatsoever. Copies by Queen's Printer to be evidence.

13. The Interpretation Act contained in the said Consolidated Statutes, shall apply to them and to this Act ;—and in construing this Act or any Act forming part of the said Statutes, unless it be otherwise provided, or there be something in the context or other provisions thereof indicating a different meaning or calling for a different construction : Interpretation of the said statutes.

(1.) The enactments in such Act apply to the whole Province of Canada ; Extent of Enactments.

(2.) *Identical with 31 V. c. 1, sec. 6 (2), ante page 3.* Law to be construed as speaking at the time when the case arises.

(3.) *Identical with 31 V. c. 1, sec. 6 (3), ante page 3.* " Shall and " may."

(4.) *Identical with 31 V. c. 1, sec. 6 (4), ante page 3.* " Herein."

(5.) *Identical with 31 V. c. 1, sec. 8, ante page 9.* " Quorum."

(6.) The word "Proclamation" means a Proclamation under the Great Seal, and the expression "Great Seal" means the Great Seal of the Province of Canada ; "Proclamation."

(7.) When the Governor is authorized to do any act by Proclamation, such Proclamation is to be understood to be a Proclamation issued under an Order of the Governor in Council ; but it shall not be necessary that it be mentioned in the Proclamation that it is issued under such Order. "Proclamation."

(8.) *Identical with 31 V., c. 1, sec. 7 (9), ante page 4.* " County."

14. If upon any point there be a difference between the English and the French versions of the said Statutes, that version which is most consistent with the Acts consolidated in the said Statutes shall prevail. As to English and French Versions.

15. *Relates to distribution of copies.*

16. This Act shall be printed with the said Consolidated Statutes and shall be subject to the same rules of construction as the said Consolidated Statutes ;—And any Chapter of the said Statutes may be cited and referred to in any Act and proceeding whatever, Civil and Criminal, either by its title as an Act,—or by its number as a Chapter in the copies printed by the Queen's Printer,—or by its short title. This Act to be printed with the said statutes.

How they may be cited.

17. *Relates to printing of Imperial Acts with the C. S. of Can.*

C. S. CAN. CAP. 5.

An Act respecting the Provincial Statutes.

The following sections and sub-sections of C. S. C. c. 5, are not identical with any provisions of 31 V. c. 1. They are applicable only to the C. S. C., and C. S. U. C., and Statutes of the Province of Canada.

Those sections and sub-sections which are identical with clauses in 31 V. c. 1, are not printed here but are indicated by numbers and references to the sections or sub-sections of 31 V. c. 1 (printed ante), to which they respectively answer.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

FORM OF ENACTING.

Former enact-
ing clause to
be disused.

1. The following words, formerly inserted in the Preamble of Statutes and indicating the authority by virtue of which they are passed: "Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same as follows:" having been disused and replaced by the words following, "Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows: The said last mentioned form shall continue to be used.

Another form
substituted.

Clauses to fol-
low in a con-
cise form.

2. *Identical with 31 V., c. 1, sec. 2. See page 1.*

INTERPRETATION.

To what Acts
the Interpreta-
tion clauses of
this Act shall
apply.

3. This section and the fourth, fifth and sixth sections of this Act, and each provision thereof, shall extend and apply to these Consolidated Statutes of Canada, and to every Act passed in the Session held in the twelfth year of Her Majesty's Reign, or in any subsequent or future Session of the Provincial Parliament, except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context,—and except in so far as any provision thereof is in any such Act declared not applicable thereto;—Nor shall the omission in any Act of a declaration that the "Interpretation Act" shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session.

Date of assent
to be endorsed
on every Act.

4. *The Clerk of the Legislative Council shall endorse on every Act of the Parliament of this Province, immediately after*

the title of such Act, the day, month and year when the same was by the Governor assented to in Her Majesty's name, or reserved the same for the signification of Her Majesty's pleasure thereon,—and in the latter case, he shall also endorse thereon the day, month and year when the Governor has signified either by speech or message to the Legislative Council and Assembly, or by Proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same. And such indorsement shall be taken to be a part of such Act, and the date of such Assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement be therein provided.

As to reserved Acts.
Effect of such indorsement.

5. *This section, which related to amendments of Acts during same session, is effete.*

6. Subject to the limitations aforesaid,—in every Act of the Parliament of this Province, to which this section applies:—

Interpretation of certain words &c., viz :

First. Identical with 31 V. c. 1, sec. 7 (1). See page 3.

Her Majesty, &c.

Secondly. The words “Governor,” “Governor of this Province,” “Governor-General,” or “Governor in Chief,” shall mean—the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being;

“Governor,” &c.

Thirdly. The words “Governor in Council,” shall mean—the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, acting by and with the advice of the Executive Council thereof;

“Governor in Council.”

Fourthly. The words “Lower Canada,” shall mean all that part of this Province which formerly constituted the Province of Lower Canada;

“Lower Canada.”

Fifthly. The words “Upper Canada” shall mean all that part of this Province which formerly constituted the Province of Upper Canada.

“Upper Canada.”

Sixthly. Identical with 31 V. c. 1, sec. 7 (6). See page 4.

United Kingdom.
United States.
Names of places, officers, &c.

Seventhly. Identical with 31 V. c. 1, sec. 7 (10). See page 4.

Number and gender.

Eighthly. The word “person,” shall include any body corporate or politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of the Province to which such context extends.

“Person.”

Ninthly. Identical with 31 V. c. 1, sec. 7 (12). See page 4.

“Writing”—
“written.”

- "Now—next." *Tenthly.* Identical with 31 V. c. 1, sec. 7 (13). See page 4.
- "Month." *Eleventhly.* Identical with 31 V. c. 1, sec. 7 (14). See page 5.
- "Holiday." *Twelfthly.* The word "holiday" shall include Sundays, New Year's Day, the Epiphany, the Annunciation, Good-Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul's Day, all Saints' Day and Christmas Day,—and any day appointed by Proclamation for a General Fast or Thanksgiving.
- "Oath." *Thirteenthly.* The word "oath" shall be construed as meaning a solemn affirmation whenever the context applies to any person and case by whom and in which a solemn affirmation may be made, instead of an oath, and in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same, and to certify its having been made:—and the wilful making of any false statement in any such oath or affirmation shall be wilful and corrupt perjury;—and the wilful making of any false statement in any declaration required or authorized by any such Act as aforesaid, shall be a misdemeanor punishable as wilful and corrupt perjury.
- "Registrar"—
"Register." *Fourteenthly.* The words "Registrar" or "Register" in any such Act, applying to the whole Province, shall mean and include indifferently Registrars and Registers in Lower Canada and in Upper Canada, and their Deputies respectively.
- Contravention
of Acts. *Fifteenthly.* Any wilful contravention of any such Act as aforesaid, which is not made any offence of some other kind, shall be a misdemeanour, and punishable accordingly.
- Punishment
for contraven-
tion in certain
cases. *Sixteenthly.* Whenever any wilful contravention of any such Act is made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable.
- Recovery of
pecuniary pen-
alties when
no other mode
is provided. *Seventeenthly.* Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any such Act as aforesaid,—then, if no other mode be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself,—in any form allowed in such case by the law of that part of the Province where it is brought,—before any Court having jurisdiction to the amount of the penalty in cases of simple contract,—upon the evidence of any one credible witness other than the Plaintiff or party interested; And if no other provision be made for the appropriation of such penalty or forfeiture, one half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown.

Eighteenthly. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is by any such Act as aforesaid given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly.

Penalties not otherwise appropriated to form part of Con. Rev. Fund.

Nineteenthly. If any sum of the public money be, by any such Act as aforesaid, appropriated for any purpose or directed to be paid by the Governor,—then, if no other provision be made respecting it, such sum shall be payable under Warrant of the Governor directed to the Receiver General, out of the Consolidated Revenue Fund of this Province: And all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such Officer, as the Governor may direct.

Paying and accounting for moneys appropriated by Statute.

Twentiethly. Identical with 31 V. c. 1, sec. 7 (25). See p. 7.

Magistrate—Justices.

Power to do any Act to include all necessary powers for doing it.

Twenty-firstly. If in any such Act as aforesaid, any party is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place be mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there be no common gaol there, then in or to that common gaol which is nearest to such locality; and the keeper of any such common gaol shall receive such person, and him safely keep and detain in such common gaol under his custody until discharged in due course of Law, or bailed in cases in which bail may by Law be taken.

Imprisonment—where to be when no special place is mentioned.

Twenty-secondly. Identical with 31 V. c. 1, sec. 7 (27). See page 7.

Power to appoint to include power to remove, &c.

Twenty-thirdly. Identical with 31 V. c. 1, sec. 7 (28). See page 7.

Name of office to include Successor's Deputy.

Twenty-fourthly. Identical with 31 V. c. 1, sec. 7 (30). See page 7.

Words constituting a corporation to vest certain powers in it. Not to authorize banking.

Twenty-fifthly. No provision or enactment in any such Act, as aforesaid, shall affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it is

Acts not to affect the Crown, &c., unless expressly declared so to do.

expressly stated therein that Her Majesty shall be bound thereby; nor shall it affect the rights of any person or of any body politic, corporate or collegiate (such only excepted as are therein mentioned), unless such Act is a Public General Act.

Power to
amend any
Act.

Twenty-sixthly. Every such Act as aforesaid shall be so construed as to reserve to the Legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by the Legislature to be required for the public good; And unless it is otherwise expressly provided in any such Act passed for chartering any Bank, it shall be in the discretion of the Legislature at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as to the said Legislature appears expedient.

And if it be a
Bank Act.

Public Act.

Twenty-seventhly. If any such Act as aforesaid be declared to be a Public Act, such declaration shall be construed as an enactment that such Act shall be judicially noticed by all Judges, Justices of the Peace and others without being specially pleaded;—And every such Act which shall not, either by its nature or by express provision, be a Public Act, shall be deemed a Private Act, and shall be judicially noticed only when specially pleaded;—And all copies of any such Acts, public or private, printed by the Queen's Printer, shall be evidence of such Acts and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary be shewn.

Private Act.

Printed copies
of Acts.

Preamble to be
part of Act.
All Acts remedial.

Twenty-eighthly. The Preamble of every such Act as aforesaid shall be deemed a part thereof intended to assist in explaining the purport and object of the Act;—And every such Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which the Legislature deems to be for the public good, or to prevent or punish the doing of any thing which it deems contrary to the public good,—and shall accordingly receive such fair, large and liberal construction and interpretation as will best insure the attainment of the object of the Act and of such provision or enactment, according to their true intent, meaning and spirit.

Application of
Rules of Con-
struction in-
serted or not
inserted here-
in.

Twenty-ninthly. Nothing in this Section shall exclude the application to any such Act as aforesaid, of any Rule of Construction applicable thereto, and not inconsistent with this Section, or to exclude the application of any Rule of Construction in this Section to any Act passed in any Session before that held in the twelfth year of Her Majesty's Reign, if without this Section such Rule would have been applicable thereto.

Thirtiethly. The provisions of this Section shall apply to the construction thereof, and to the words and expressions used therein. This section to apply to words, &c., in this Act.

7 *This Section related to duty of Clerk of Council to furnish Queen's Printer with copy of Statutes, and is effete.*

8. *This Section related to distribution of Statutes, and is effete.*

9. *This Section related to duty of the Provincial Secretary in regard to distribution of Statutes, and is effete.*

10 *This section related to disposal of copies of Statutes remaining after distribution, and is effete.*

11. *This Section related to binling of Statutes, and is effete.*

12. *This Section related to Report of Queen's Printer, and is effete.*

13. *This Section related to parties obtaining Private Acts, and is effete.*

PROOF OF PROVINCIAL STATUTES.

14. Any copy of the Statutes and Ordinances of the late Province of Lower Canada, printed and published by the Printer duly authorized to print and publish the same by Her Majesty, or by any of Her Royal Predecessors, shall be received as conclusive evidence of the several Statutes made and enacted prior to the Union of the Provinces of Upper and Lower Canada, by the Legislature of the Province of Lower Canada, and of the tenor of such Statutes and Ordinances, in any Court of Civil or Criminal Jurisdiction in Upper Canada. Copies of Acts of L. C. printed by Queen's Printer to be conclusive evidence thereof.

The latter part of this Section relates to proof of Statutes in Lower Canada, and is not printed.

15. This Act may be cited as "The Interpretation Act." Short Title of this Act.

C. S. U. C. CAP. I.

An Act respecting the Consolidated Statutes for Upper Canada.

[Assented to 4th May, 1859.]

WHEREAS it has been found expedient to revise, classify Preamble and consolidate the Public General Statutes which apply exclusively to Upper Canada, including both those passed by the Legislature of the late Province of Upper Canada,

and those passed by the Parliament of Canada;—And whereas such revision, classification and consolidation have been made accordingly; And whereas it is expedient to provide for the incorporation therewith of the Public General Statutes passed during the present Session in so far as the same affect Upper Canada exclusively, and for giving the force of law to the body of Consolidated Statutes to result from such incorporation: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Original Roll of Statutes revised, &c., to be certified and deposited.

1. The printed Roll attested as that of the said Statutes so revised, classified and consolidated as aforesaid, under the signature of His Excellency the Governor-General, that of the Clerk of the Legislative Council and that of the Clerk of the Legislative Assembly, and deposited in the office of the Clerk of the Legislative Council, shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as to be repealed in the Schedule A thereto annexed; but the marginal notes thereon, and the references to former enactments at the foot of the several sections thereof form no part of the said Statutes, and shall be held to have been inserted for convenience of reference only, and may be omitted or corrected, and any mis-print or clerical error in the said Roll may also be corrected,—in the Roll hereinafter mentioned.

As to marginal notes, mis-prints, &c.

Governor may cause the legislation of this Session to be incorporated with the Statutes in the said Roll.

2. The Governor may select such Acts and parts of Acts passed during the present Session, as he may deem it advisable to incorporate with the said Statutes contained in the said first mentioned Roll, and may cause them to be so incorporated therewith, adapting their form and language to those of the said Statutes (but without changing their effect), inserting them in their proper places in the said Statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the present Session so incorporated as aforesaid; and the Governor may direct that all sums of money stated in the said Roll in Halifax currency, be converted into dollars and cents, in all cases where it can be conveniently done.

Certified Roll including the legislation of the present Session to be deposited and serve as the original thereof.

3. So soon as the said incorporation of such Acts and parts of Acts with the said Statutes, and the said addition to the said Schedule A shall have been completed the Governor may cause a correct printed Roll thereof attested under his signature and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the Legislative Council, which roll shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed; any

marginal notes however, and references to former enactments which may appear thereon being held to form no part of the said Statutes but to be inserted for convenience of reference only.

4. The Governor in Council, after such deposit of the said last mentioned Roll, may by Proclamation, declare the day on, from and after which the same shall come into force and have effect as law by the designation of "The Consolidated Statutes for Upper Canada."

Proclamation for bringing the Consolidated Statutes into force on a certain day.

By Proclamation dated the 9th day of November, 1859, the Governor-General declared the 5th December, 1859, as the day on which the Con. Stat. U. C. should come into effect.

5. On, from and after such day, the same shall accordingly come into force and effect as and by the designation of "The Consolidated Statutes for Upper Canada," to all intents as though the same were expressly embodied in and enacted by this Act, to come into force and have effect on, from and after such day; and on, from and after the same day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned as repealed, shall stand and be repealed, save only as hereinafter is provided.

On and after that day, they shall be in force—and the enactments embodied in them repealed.

Exception.

6. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them; nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts, or the application of any of the said Acts or parts of Acts or of any Act or provision of laws formerly in force,—to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply.

Saving as to transactions, &c., anterior to the repeal.

7. The repeal of the said Acts and parts of Acts shall not affect—

Certain matters anterior to the repeal not to be affected by it,—

1. Any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal,—

Penalties, &c.

2. Nor any indictment, information, conviction, sentence or prosecution had, done, completed or pending at the time of such repeal,—

Indictments, &c.

3. Nor any action, suit, judgment, decree, certificate, execution, process, order, rule, or any proceeding, matter or thing, whatever respecting the same, had, done, made, entered, granted, completed, pending, existing, or in force at the time of such repeal,—

Actions, &c.

4. Nor any act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter or thing,

Acts, deeds, rights, &c.

had, done, made, acquired, established or existing at the time of such repeal,—

Offices, &c

5. Nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto, at the time of such repeal,—

Marriage.

6. Nor any marriage, certificate or registry thereof, lawfully had, made, granted or existing before or at the time of such repeal,—

Any other matters, &c.

7. Nor shall such repeal defeat, disturb, invalidate, or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal ;

But the same to remain valid, &c.

8. But every

Such penalty, forfeiture and liability, and every such

Indictment, information, conviction, sentence and prosecution, and every such

Action, suit, judgment, decree, certificate, execution, process, order, rule, proceeding, matter or thing, and every such

Act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter, or thing, and every such

Office, appointment, commission, salary, allowance, security, and duty, and every such

Marriage, certificate and registry, and every such other matter and thing, and the force and effect thereof, respectively,

And may be enforced, &c., and under what laws.

May and shall, both at law and in equity, remain and continue as if no such repeal had taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Consolidated Statutes and other the Statutes and Laws having force in Upper Canada, so far as applicable thereto, and subject to the provisions of the said several Statutes and Laws.

Consolidated Statutes not to be deemed new Laws.

8. The said Consolidated Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Consolidated Statutes are substituted.

How construed if in any case they differ from the repealed Acts, &c.

9. But if upon any point the provisions of the said Consolidated Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then as respects all transactions, matters and things subsequent to the

time when the said Consolidated Statutes take effect, the provisions contained in them shall prevail, but as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

10. Any reference in any former Act remaining in force, or in any instrument or document, to any Act or enactment so repealed, shall after the Consolidated Statutes take effect, be held as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Consolidated Statutes having the same effect as such repealed Act or enactment.

As to references to repealed Acts, in former Acts, &c.

11. The insertion of any Act in the said Schedule A shall not be construed as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Consolidated Statutes.

As to effect of insertion of an Act in Schedule A.

12. Copies of the said Consolidated Statutes printed by the Queen's Printer from the amended Roll so deposited, shall be received as evidence of the said Consolidated Statutes in all Courts and places whatsoever.

Copies by Queen's Printer to be evidence.

13. *Relates to translation into French.*

14. *Relates to Distribution.*

15. This Act shall be printed with and shall form the first Chapter of the said Consolidated Statutes, and shall be subject to the rules of construction prescribed in the second Chapter thereof;—And any Chapter of the said Statutes may be cited and referred to in any Act and proceeding whatever, Civil and Criminal, either by its title as an Act,—or by its number as a Chapter in the copies printed by the Queen's Printer or by its short title.

This Act to form part of Consolidated Statutes.
How they may be cited.

C. S. U. C. CAP. 2.

An Act respecting the Interpretation of certain words and terms therein mentioned.

TO prevent the unnecessary multiplication of words and to give definite meanings to certain words and expressions which may be provided for by a General Law: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The following sections of C. S. U. C. c. 2, are not identical with any provisions of 31 V. c. 1. They are applicable only to the C. S. U. C. Those Sections or Sub-sections which are identical with clauses of 31 V. c. 1, are indicated by their numbers and references to those Sections or Sub-sections of 31 V. c. 1, to which they respectively correspond.

What to constitute "The Consolidated Statutes of Upper Canada."

1. The foregoing Act, this Act and the following series of Acts shall apply to Upper Canada only, and shall constitute the Consolidated Statutes of Upper Canada exclusively; and in pleading, citing or otherwise referring to them or any of them, it shall be sufficient to use the expression "The Consolidated Statutes for Upper Canada," adding the Chapter when necessary.

Meaning of the words "The Queen," "The Crown."

2. Unless otherwise declared or indicated by the context—The words "Her Majesty," "The Queen," or "The Crown," wherever used in the Consolidated Statutes of Upper Canada shall mean Her Majesty, Her Heirs and Successors.

Meaning of the words "The Governor."

3. The word "Governor" shall include the Governor, Lieutenant-Governor, or person administering the Government.

Meaning of the word "Proclamation."

4. The word "Proclamation" when not otherwise expressed shall mean a Proclamation under the Great Seal of Canada, the word "Great Seal" shall mean the Great Seal of this Province.

When Proclamation to be by Order in Council.

5. When the Governor is authorized to do an Act by Proclamation, it shall, unless otherwise expressed, mean a Proclamation issued under the Great Seal by order of the Governor in Council.

The words "Upper Canada."

6. The words "Upper Canada" shall mean that part of this Province which formerly constituted the Province of Upper Canada.

The word "County."

7. The word "County" shall include United Counties.

The words "Superior Courts."

8. The words "Superior Courts" shall mean the Court of Queen's Bench, the Court of Common Pleas and the Court of Chancery.

The words "Superior Courts of Common Law"

9. The words "Superior Courts of Common Law," shall mean the two former, and "Court of Equity" shall mean the Court of Chancery.

As to number or Gender.

10. *Identical with 31 V. c. 1, sec. 7 (10). See page 4.*

The Interpretation Clause of the Municipal Act applied.

11. The interpretation clause of the Act respecting Municipal Institutions shall, so far as the terms explained are respectively applicable, extend to each of the following Consolidated Statutes which relate to any such Municipalities.

12. The word "Person" shall include any body corporate or politic, or party, and the heirs, executors, administrators, or other legal representatives of such person to whom the context applies. The word "Person."

13. The word "Month" shall mean a Calendar month, and the word "Year" a Calendar year. The words "Month and Year."

14. The word "Oath" shall mean any oath lawfully administered, and shall include a Solemn Affirmation whenever an affirmation may be made instead of an oath, and in like cases the word "Sworn" shall include the word "Affirmed." The words "Oath, Affirmation," &c.

15. In every case where an oath or affirmation is directed or authorized to be made before any Court, person or officer, such Court, person or officer shall have full power and authority to take and administer the oath or affirmation; and the wilful and corrupt making of any false statement in any such oath or affirmation, shall be wilful and corrupt perjury, and the wilful and corrupt making of any false statement in any declaration required or authorized by any of the Consolidated Statutes of Upper Canada, shall be a misdemeanor punishable as wilful and corrupt perjury. Who may administer oath, &c.

16. The words "Justice of the Peace," shall include a Magistrate or two or more Justices of the Peace or Magistrates assembled or acting together; and if anything be directed to be done by or before a Magistrate or a Justice of the Peace or other Public Officer or Functionary, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done, and whenever power is given to any person, Officer or Functionary to do or enforce any act or thing, all necessary powers to enable him to do or enforce such act or thing shall be implied. The words "Justice of the Peace."

17. When any act or thing is required to be done by more than two persons, a majority of them shall be sufficient, unless otherwise specially provided. A majority to form a Quorum.

18. Unless otherwise provided or there be something in the context or other provisions of the Act indicating a different meaning or calling for a different construction: Unless otherwise provided.

(1.) The law in the last Act, and in the following series of Acts, is to be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning; The Acts to be considered as always speaking.

(2.) *Identical with 31 V. c. 1, sec. 6 (3). See page 3.*

Force of words "shall" "may."

And of "here-
in." (3.) *Identical with 31 V. c. 1, sec. 6 (4).* See page 3.

The Interpre-
tation Act of
Canada to
apply.

19. The provisions contained in the Interpretation Act of Canada, and not contained in this Act, shall also apply to the Consolidated Statutes for Upper Canada, as if incorporated herein.

31 VICT. CAP. 28.

An Act to amend an Act, intituled : *An Act respecting the Statutes of Canada.*

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Sect. 3, of Cap.
1, 31 Vict.,
corrected.

1. The word "thirtieth" in the third line of section three, of an Act passed in the thirty-first year of Her Majesty's reign, chapter one, intituled : *An Act respecting the Statutes of Canada*, shall be expunged, and the word "thirty-first" shall be inserted instead thereof.

35 VICT. CAP. 1.

An Act to amend the Act respecting the Statutes of Canada.

[Assented to 14th June, 1872.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. All the original Acts, passed by the Legislatures of the late Provinces of Upper or Lower Canada, or of the late Province of Canada, transferred to and deposited of record in the office of the Clerk of the Senate, and also all original Acts of the Parliament of Canada heretofore assented to, or hereafter to be assented to by the Governor-General, and all Bills reserved for the signification of the Queen's pleasure, and assented to or disallowed by the Queen in Council, shall be and continue

Clerk of the
Parliaments to
have the
custody of
original Acts
of Parliament
and of certain
late Legisla-
tures, and of
reserved Bills.

to remain of record in the custody of the Clerk of the Senate of Canada, and such Clerk, as Custodian thereof, shall be known and designated as "The Clerk of the Parliaments : " And every thing now required by the Act intituled : "*An Act respecting the Statutes of Canada,*" or by any other Act of the Parliament of Canada, to be done by the Clerk of the Senate, as Custodian of the said Acts or any of them, shall be done by the Clerk of the Parliaments.

2. The Clerk of the Parliaments shall have a Seal of Office and shall affix the same to certified copies of all Acts intended for the Governor-General or the Registrar-General of Canada or required to be produced before Courts of Justice, either within or beyond the limits of the Dominion of Canada, and in any other case, when the said Clerk may deem it expedient.

Clerk of the Parliaments to have and use a Seal of Office.

3. All copies of the Acts above referred to, so certified by the Clerk of the Parliaments, shall be held to be duplicate originals, and also to be evidence, as if printed under the authority of Parliament by the Queen's Printer, of such Acts and of their contents.

Certified copies of Acts to be held to be duplicate originals.

4. As soon as practicable after the prorogation of every session of Parliament, the Clerk of the Parliaments shall obtain from the Queen's Printer a sufficient number of bound copies of the Statutes of Canada passed during such Session of Parliament, and shall deliver to the Governor-General one copy duly certified, for transmission to one of Her Majesty's Principal Secretaries of State, as required by the British North America Act, 1867, together with certified copies of all Bills reserved for the signification of the Queen's pleasure, and one like copy of the said Acts in the English and French languages to the Registrar-General of Canada.

Bound copy of Statutes of Canada and copies of reserved bills duly certified, to be delivered to the Governor and Bound Copy to Registrar-General.

5. The Clerk of the Parliaments shall also furnish certified copies of any of the Acts above mentioned to any public officer or party applying for the same ; and upon all such copies the said Clerk of the Parliaments shall, before delivering the same to such officer or party, receive from such party a fee at the rate of ten cents for every hundred words in the certified copy and certificate ; and all sums so received by him shall form part of the contingent fund of the Senate.

Certified copies of Acts to be furnished on application.

6. All certified copies required for the public service shall be obtained from the Clerk of the Parliaments through the Secretary of State of Canada.

Copies for public service.

7. The Clerk of the Parliaments shall insert at the foot of every such copy so required to be certified, a written certificate, duly signed and authenticated by him, to the effect that it is a true copy of the Act passed by the Parliament of Canada, or by the Legislature of the late Province of Canada, or of the late

Certificate to be inserted at the foot of every copy of Act required to be certified.

Province of Upper Canada or Lower Canada (*as the case may be*) in the session thereof held in the _____ year of H. M. Reign, and assented to in Her Majesty's name, by the Governor-General, or (*as the case may be,*) on the day of _____, or reserved for the signification of Her Majesty's pleasure thereon, and assented to by Her Majesty in Council, on the _____ day of _____

38 VICT. CAP. 1.

An Act to amend "*The Interpretation Act*," as respects the printing and distribution of the Statutes, and the territorial application of Acts amending previous Acts.

[Assented to 8th April, 1875.]

Preamble.

WHEREAS the publication and distribution of the Public General Acts passed in each session of Parliament is greatly delayed by the publication of the Local and Private Acts of the same session in the same volume, and it is expedient that Acts of the Imperial Parliament, Orders in Council, and Proclamations of a public general nature should be published and distributed with the Public General Statutes: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

New sections substituted for sections 10 and 11 of 31 Vic. c. 1.

1. Sections ten and eleven of the Act known as "*The Interpretation Act*," being chapter one of the Acts passed in the thirty-first year of Her Majesty's reign, are hereby repealed, and the following are substituted for them, and shall be read as the tenth and eleventh sections of the said Act:—

Acts to be printed in two separate volumes: what each shall contain.

"10. The Acts of the Parliament of Canada passed in the present or any future session thereof, shall be printed in two separate volumes, the first of which shall contain such of the said Acts and such Orders in Council and Proclamations or other documents, and such Acts of the Parliament of the United Kingdom, as the Governor in Council may deem to be of a public and general nature or interest in Canada, and may direct to be inserted in the said volume; and the second volume shall contain the remaining Acts of the session and shall be printed after the first volume. Copies of the said volumes shall be printed in the English and French languages respectively, by the Queen's Printer, who shall, as soon after the close

of each session as may be practicable, deliver, or send by post, or otherwise, in the most economical manner, the proper number of copies to the parties hereinafter mentioned, respectively, and in either or both languages as he may be directed; that is to say:—

Copies of each volume to be printed in the English and French languages respectively.

“To the members of the two Houses of Parliament respectively, such number of copies each as may, from time to time, be directed by joint resolution of the said Houses, or, in default of such resolution, in such numbers as shall be directed by Order of the Governor in Council,—and to such public departments, administrative bodies and officers throughout Canada, (including justices of the peace in the distribution of the first but not of the second volume) as may be specified in any Order to be for that purpose made from time to time by the Governor in Council;

Distribution of copies.

“Provided that when any Bill receives the Royal Assent, during and before the termination of any session of Parliament, the Queen’s Printer shall, if so directed by the Secretary of State of Canada, cause distribution of such Act to be made, to the same parties and in like manner and numbers as hereinbefore provided with respect to the Acts of any session; or such Act may, by order of the Governor, be published in the *Canada Gazette*, and printed afterwards in the proper volume of the Statutes.”

Proviso as to Bills assented to during a session.

“11. The Secretary of State of Canada shall, within fifteen days after the close of each session of Parliament, transmit to the Queen’s Printer a list of the public departments, administrative bodies and officers to whom the first and second volumes respectively, of the Statutes of such session are to be transmitted as aforesaid, and shall also as occasion requires, furnish him with copies of all Orders in Council made under the provisions of this Act.”

Duties of the Secretary of State.

2. *A clause which does not relate to Ontario is added to the eighteenth sub-section of the seventh section of 31 V. c. 1, succeeded by the following provision:* In the Province of Ontario, the said words shall denote the Court of Error and Appeal in Ontario as well as the other courts in that Province. *See 31 V. c. 1, sec. 7 (18), page 5.*

Sub-section 18 of section 7 of 31 V. c. 1, amended.
Expression “Superior Courts,” what to include.

3. And for the avoidance of doubt as to the effect of Acts amending previous Acts which do not apply to the whole Dominion of Canada, it is declared and enacted, that no Act amending a previous Act which does not apply to all the Provinces of Canada, nor any enactment in any such amending Act, although of a substantive nature or form, does or shall apply to any Province to which the amended Act does not apply, unless it is expressly provided that such amending Act or enactment shall apply to such Province or to all the Provinces of Canada.

Territorial application of Acts amending previous Acts.

TITLE II.

TERRITORIAL DIVISION.

23 VICT. CAP. 21.

An Act respecting the Line of Division between Upper and Lower Canada.

[Assented to 19th May, 1860.]

Preamble.

WHEREAS, on the twenty-fourth of August, seventeen hundred and ninety-one, His late Majesty King George the Third was pleased, by and with the advice of His Privy Council, to order that the then Province of Quebec should be divided into two Provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by separating the said two Provinces according to a certain line of division; and whereas, by reason of certain inconsistencies and inaccuracies in the description of the said line of division in the Order in Council in that behalf, doubts have arisen as to the true course and situation on the ground of the said line of division; and whereas such doubts, and the consequent uncertainty as to the limits of electoral, judicial, municipal, territorial and other divisions on each side of the said line have been, and still are, notwithstanding the re-union of the said Provinces, productive of great inconvenience, loss and injury, and of serious impediments to the due administration of justice, and the exercise and discharge of political and civil rights and duties; and whereas it is expedient and highly desirable to remove such doubts, by correctly describing and defining the said line of division, and providing for its being laid down and marked in the field, and to apply a remedy to the evils to which such doubts have given rise; and whereas Commissioners were appointed to enquire into and report upon the said Line, and the said Commissioners, being the Honorable Frederick Auguste Quesnel, of the City of Montreal, and Thomas Kirkpatrick, Esquire, of the City of Kingston, have, in accordance with their commission in that behalf, made their report to His Excellency the Governor-General upon the matters into which they were so commissioned to enquire, which Report bears date the

sixteenth February, 1860 : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, declares and enacts as follows :

1. The said Province of Upper Canada was separated from the said Province of Lower Canada by a line of division which may now be described as follows, that is to say : commencing at the water's edge on the north shore of Lake St. Francis, at a point where the prolongation of a line connecting the two stone monuments now existing at the cove West of Pointe au Baudet strikes the water of the said lake ; thence along the line run in a north-westwardly course by Hyacinthe Lemaire St. Germain, sworn Land Surveyor, for the South-Western limit of the Seigniorship of New Longueuil, and now bounding certain lots in the said Seigniorship, and following the road between part of the Fifth Concession of the Township of Lancaster and the said Seigniorship to a point at the distance of three leagues from the site of the former stone monument now under the waters of Lake St. Francis, being the westernmost angle of the said Seigniorship ; thence northwardly in a straight line to the monument planted by Colonel Bouchette, Surveyor-General of Lower Canada, at the extremity of the line surveyed and prolonged by him agreeably to and connecting the five stone monuments now standing, planted by Louis Guy and Pierre Remy Gagnier, sworn Land Surveyors, near Point Fortune, on the Ottawa River, to mark the commencement and course of the Western limit of the Seigniorship of Rigaud ; thence along the said line, so prolonged, to the Bank of the Ottawa River ; thence to the middle of the main channel of the said River ; thence ascending along the middle of the said main channel of the said River into the Lake Temiscaming ; thence through the middle of the said Lake to the head thereof ; and thence by a line drawn due North to the Northern Boundary line of the Province, in accordance with the said Report of the said Commissioners.

Line between
Upper and
Lower Canada
described.

2. The Commissioner of Crown Lands shall cause the said Line of Division to be surveyed and run from the North Bank of Lake St. Francis to the South Bank of the River Ottawa, by a Land Surveyor duly admitted to practise as such in and for Upper Canada and Lower Canada, and being an Officer of the Surveying Branch of the Department of Crown Lands, who shall mark the course of the same between those waters by monuments of cut stone, or other sufficient boundary marks, at short intervals, including one on each bank, one at every point where the course of the line is changed, and one at every other conspicuous or otherwise appropriate point, and shall make a plan and report of such survey, in which the position of each of such monuments and marks shall be shown, as well as the positions and distances and bearings from the line of any trees, streams, or other fixed objects, natural or artificial, serving to mark the said portion of the said line or its course or situation

Commissioner
of Crown
Lands to cause
the said Line
to be surveyed
and marked
out by an offi-
cer of the De-
partment.

And the Line
so marked
shall be the
true boundary.

in whole or in part ; which line so marked on the ground shall be taken to be the true boundary between Upper and Lower Canada, and such plan and survey, on being approved by the Governor in Council, shall be deposited and remain of record in the said Department of Crown Lands, and shall govern in all questions relating to the said boundary :

Penalty for
removing or
defacing the
marks.

(1.) Any person, who shall remove or wilfully damage or deface any of such monuments or marks, shall be guilty of a misdemeanour, and may be prosecuted therefor in any Court of competent jurisdiction in Upper or Lower Canada, and on conviction thereof shall be liable to fine or imprisonment, or both, in the discretion of the Court.

Compensation
for lands pa-
tentted as in
Upper and
found to be in
Lower Canada.

3. In case any land granted by Letters Patent under the Great Seal of the late Province of Upper Canada, or granted by Letters Patent under the Great Seal of this Province as being in Upper Canada, or sold by the Crown as being in Upper Canada and not yet under patent, is found under this Act to be either wholly or partly in Lower Canada, and there be nothing in such Letters Patent to exclude a claim to the compensation hereinafter provided for, it shall be lawful for the Governor in Council to make compensation, either in money or land or in land scrip or certificates to be taken in payment for public lands, to the grantee or his heir or legal representative, for such land or so much thereof as may be lost to him by reason of this Act, unless the same be still in the possession of the Crown, in which case Letters Patent for the same may be issued in his favour.

Recital.

4. And whereas persons entitled to compensation under the foregoing clause, may have in good faith occupied and improved partly or wholly in Lower Canada the land therein referred to as intended to be granted to them, and other persons owning lands upon or near the said line may have extended their improvements across the said line, on either side thereof, in good faith believing they had a right so to do, and may be in possession thereof, and it is right to confirm every such person in his possession at his option ; every person who shall, by the Commissioners hereinafter referred to, be found to be so in possession of any land which, by the said line as it shall be finally marked on the ground, shall be found to be in Upper or Lower Canada, may retain possession of such land on making compensation therefor, in manner hereinafter mentioned, to the person who shall hold the legal title thereto, and who, under this Act, shall be dispossessed thereof :

Commission-
ers for inquir-
ing into
claims for
compensation
in certain
cases.

(1.) The Governor may appoint two or more Commissioners, who shall inquire into and report upon the amount of compensation to be paid under this and the preceding section, and the manner in which it shall be paid to the parties entitled thereto, and who shall also inquire, determine and report what

persons, if any are entitled to exercise the option given by this section and the quantity of land which each such person is entitled by the exercise of such option to retain possession of hereunder, and shall cause the same to be described by metes and bounds; and on compensation being made as herein provided for such parcels of Land, the Commissioner of Crown Lands shall issue to each person who shall be then entitled thereto an instrument under his hand and seal, declaring that such person is entitled under this Act to retain possession of such parcel of land; and the person receiving the same, and his heirs and assigns, shall thenceforward hold such parcel of land as owners thereof in fee simple, or *en franc-alleu*, as the case may be;

(2.) The compensation provided for under this Act shall be in lieu of all claims against the Crown and the Seigniors of Lands affected by the said Division Line, and against all persons owners of lands affected by the said line, or who having owned any such lands have sold the same in good faith;

Compensation to be in lieu of claims.

(3.) In the case of minors or persons under any legal disability, the Judge of the County Court for the County in which the land lies, if in Upper Canada, or a Judge of the Superior Court, if in Lower Canada, may on the application of the Commissioner of Crown Lands, and upon such notice and such proceedings had as according to the Laws of each section of the Province in that behalf are required in such cases, appoint a guardian for such minor or person under other legal disability, whose acts shall be as effectual and binding as if the party for whom he is such guardian was competent and had himself performed such acts;

As to persons under age, &c.

(4.) The Governor may confer upon the Commissioners appointed under this Act the powers authorized by the thirteenth Chapter of the Consolidated Statutes of Canada to be conferred upon Commissioners appointed under that Act; and the subsection of the first section of the said Act, numbered two, shall then apply

Powers of Commissioners. Con. Stat. of Canada, cap. 13.

The Act referred to is now superseded by 31 V. c. 38, and 32, 33 V. c. 7, secs. 2 and 3.

5. Every person who has heretofore acted in any official capacity in any place in which, according to the provisions of this Act, he was not entitled to act in such capacity, although, by reason of uncertainty as to the said line of division, he might reasonably suppose himself to be so entitled, and every person who has heretofore omitted to act in any official capacity in any place in which, according to the provisions of this Act, he was bound to act in such capacity, although by reason of uncertainty as to the said line of division, he might reasonably suppose that he was not so bound, is hereby indemnified, freed and discharged from and against all damages, penalties and

Indemnity to persons who have acted in L. C. and U. C., respectively, under powers granted for the other section—in consequence of the uncertainty of the Line of Division.

forfeitures incurred or recoverable for or by reason of his having so acted or omitted to act ; and in case any action, suit, bill of indictment or information, shall, after the passing of this act, be brought, carried on or prosecuted against any person hereby meant to be indemnified, freed and discharged from and against any damages, penalty or forfeiture whatsoever incurred or recoverable, for or by reason of any such act or omission, such person may plead the general issue, and upon his defence give this Act and the special matter in evidence upon any trial to be had thereupon.

The same as to persons who, for like reason, have omitted to act, in L. C. or U. C., respectively.

6. Every person who has heretofore done, or omitted to do, any act whatsoever, which according to the provisions of this Act, it was not lawful for him to do, or omit to do, but which, by reason of the uncertainty as to the said line of division it was reasonable for him to suppose he might lawfully do, or omit to do, is hereby indemnified, freed and discharged from and against all damages and penalties incurred or recoverable, for or by reason of his having done, or omitted to do, the same ; and in case any action, suit, bill of indictment, or information shall, after the passing of this Act, be brought, carried or prosecuted against any person hereby meant to be indemnified, freed and discharged, from and against any damages or penalty whatsoever incurred or recoverable, for or by reason of his having done, or omitted to do, any such act, such person may plead the general issue, and upon his defence, give this Act and the special matter in evidence upon any trial to be had thereupon.

Act not to affect sec. 6 of cap. 3 of Con. Stat. of Upper Canada.

7. Nothing in this Act contained shall be construed to vary or repeal any of the provisions of the sixth section of the third chapter of the Consolidated Statutes for Upper Canada.

The Act referred to relates to the Territorial Division of Upper Canada.

TITLE III.

CONSTITUTION AND POLITICAL RIGHTS.

CON. STAT. CAN.

CAP. II.

An Act respecting the Representation of the People in the Legislative Assembly.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

ELECTORAL DIVISIONS.

1. Except in so far as it is otherwise provided in this Act,—the Counties herein referred to are those mentioned in the Chapters of the Consolidated Statutes for Upper and Lower Canada respectively, (or other Statutes in force in the said divisions of the Province, respectively,) concerning Territorial Divisions, as they are therein declared to be bounded for all purposes, or for the purpose of Representation in the Legislative Assembly if specially bounded for that purpose, and the Cities and Towns herein referred to are those mentioned in the Local or other Statutes, describing and defining the said Cities and Towns, or any of them, for Municipal purposes.

What Counties, Cities and Towns are intended in this Act.

The Legislative Assembly here mentioned is the former Legislative Assembly of the late Province of Canada.

2. For the purposes of this Act, the Counties and Ridings include every place lying within their respective limits and not expressly included by this Act within the limits of some City or Town entitled to return a Member or Members to the Legislative Assembly;

Counties to include every place within their real limits not included in some represented City or Town.

(2.) All augmentations or gores of Seigniories, Parishes or Townships, and all Towns, Villages or reserves for the same, not specially mentioned in this Act, shall be considered as forming part of the County or Riding in which the principal part of such locality, or in the immediate vicinity of which such Town, Village or reserve is situate,—unless it is otherwise ordered in some Statute in force;

Towns, Villages, augmentations, &c.

(3.) But the several Cities and Towns which under this Act are entitled to elect a Member or Members to represent them respectively in the Legislative Assembly, shall not, for the purpose of Representation in the Legislative Assembly or in the Legislative Council, be deemed to form part of the Counties or Ridings within the limits whereof they respectively lie.

Represented Cities and Towns not to form, for the purposes of this Act, part of the Counties within which they lie.

By the B. N. A. Act it was further enacted. (See B. N. A. Act Sched. 1, ad finem).

Every Town and incorporated Village existing at the Union, not specially mentioned in this Schedule, is to be taken as Part of the County or Riding within which it is locally situate.

SPECIAL DIVISIONS FOR PURPOSES OF REPRESENTATION.

3-7. *These Sections relate to Lower Canada only.*

In Upper Canada.

8. The following Counties in Upper Canada shall be divided into Ridings for the purpose of Representation, and each of such Ridings shall form an Electoral Division:

Certain Counties divided into Ridings.

(1.) THE COUNTY OF YORK shall be divided into three Rid-

York.

ings, to be called respectively the North Riding, the East Riding, and the West Riding :

The North Riding shall consist of the Townships of King, Whitechurch, Georgina, East Gwillimbury and North Gwillimbury :

The East Riding shall consist of the Townships of Markham, Scarborough, and that portion of the Township of York lying East of Yonge Street and the Village of Yorkville ;

The West Riding shall consist of the Townships of Etobicoke, Vaughan, and that portion of the Township of York lying West of Yonge Street.

The Village of Richmond Hill was added to the West Riding of York by 37 V., c. 12 (Dom.) Also for Representation in the Ontario Assembly by 38 V. c. 2, s. 19 (Ont.)

Middlesex

(2.) THE COUNTY OF MIDDLESEX *was divided by this Act into two Ridings, West and East Ridings. The B. N. A. Act substituted three Ridings. The East Riding was left as formed by this Act—as follows :*

The East Riding shall consist of the Townships of West Nissouri, North Dorchester, Westminster and London ;

The other two Ridings were formed by the B. N. A. Act, as follows :

The North Riding to consist of the Townships of McGillivray and Bidulph (taken from the County of Huron) and Williams East, Williams West, Adelaide, and Lobo.

The West Riding to consist of the Townships of Delaware, Caradoc, Metcalfe, Mosa, and Ekfrid, and the Village (*now Town*) of Strathroy. See B. N. A. Act, Sched. 1, Nos. 34, 49, and 50.

Oxford.

(3.) THE COUNTY OF OXFORD shall be divided into two Ridings, to be called respectively the North Riding and the South Riding :

The North Riding shall consist of the Townships of East Nissouri, East Zorra, West Zorra, Blandford, Blenheim, and the Town of Woodstock ;

The South Riding shall consist of the Townships of North Oxford, West Oxford, East Oxford, North Norwich, South Norwich and Dereham.

Hastings.

(4.) THE COUNTY OF HASTINGS *was divided by this Act into two Ridings, called respectively the North Riding and the South Riding ; the B. N. A. Act substituted the three following. (See Sched. 1. B. N. A. Act Nos. 75, 76, 77) :*

The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.

The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.

The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any other surveyed Townships lying to the north of the said North Riding.

(5.) THE COUNTY OF DURHAM shall be divided into two ^{Durham.} Ridings, to be called respectively the East Riding and the West Riding :

The East Riding shall consist of the Townships of Cavan, Manvers, Hope, and the Town of Port Hope ;

The West Riding shall consist of the Townships of Clarke, Darlington and Cartwright.

(6.) THE COUNTY OF NORTHUMBERLAND shall be divided into ^{Northumber-} two Ridings, to be called respectively the East Riding and the ^{land.} West Riding :

The East Riding shall consist of the Townships of Cramahe, Brighton, Murray, Seymour and Percy ;

For Representation in the Ontario Assembly the East Riding of Northumberland includes the whole of the Village of Hastings. See 38 V., c. 2, s. 19 (Ont.)

The West Riding shall consist of the Townships of Hamilton, Haldimand, Alnwick *South Monaghan* and the Town of Cobourg ;

The Township of South Monaghan formerly attached to the West Riding of Northumberland was transferred to the West Riding of Peterborough by B. N. A. Act, (see Schedule 1, to that Act Nos. 16 and 73).

(7.) THE COUNTY OF ONTARIO shall be divided into two ^{Ontario.} Ridings, to be called respectively the North Riding and the South Riding :

The North Riding shall consist of the Townships of Reach, Uxbridge, Brock, Scott, Thorah, Mara, Rama and Scugog ;

The South Riding shall consist of the Townships of Whitby, and East Whitby, Pickering, the Town of Whitby and the Village of Oshawa.

(8.) THE COUNTY OF WENTWORTH shall be divided into two ^{Wentworth.} Ridings, to be called respectively the North Riding and the South Riding :

The North Riding shall consist of the Townships of Beverly, Flamborough East, Flamborough West, and the Town of Dundas;

The South Riding shall consist of the Townships of Saltfleet, Binbrook, Glanford, Barton and Ancaster.

Lanark.

(9.) THE COUNTY OF LANARK shall be divided into two Ridings, to be called respectively the North Riding and the South Riding :

The North Riding shall consist of the Townships of Sherbrooke North, Dalhousie, Lanark, Ramsay, Lavant, Darling and Pakenham ;

The North Riding includes the Village of Carleton Place for purposes of Representation in the Ontario Assembly. See 38 V., c. 2, s. 19 (Ont.)

The South Riding shall consist of the Townships of Montague, Elmsley North, Burgess North, Sherbrooke South, Beckwith, Drummond, Bathurst and the Town of Perth.

Simcoe.

(10.) THE COUNTY OF SIMCOE *was divided by this Act into two Ridings, to be called respectively the North Riding and the South Riding: The B. N. A. Act (Schedule 1, Nos. 69 and 70), substituted the following Ridings:—*

The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tossorontio, Mulmur, and the Village of Bradford.

The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

“Robinson,” a mistake in C. S. C. c. 2, was corrected to “Morrison” by 23 V., c. 40, s. 3, but this correction was overlooked in the B. N. A. Act. There is no Township of Robinson in the County of Simcoe, nor is there a Township of Balaklava.

By 35 V., c. 13, (Dom.) Morrison is included in the Electoral District of Muskoka.

For Representation in the Ontario Assembly, portions of the County of Simcoe are included in the Electoral Divisions of Dufferin, Cardwell, Parry Sound and Muskoka, and what remains of Simcoe is divided into Three Ridings. See 38 V., c. 2, s. 13 (Ont.)

Leeds and
Grenville.

(11.) THE COUNTIES OF LEEDS AND GRENVILLE shall be formed into three Ridings, to be called respectively the North Riding of Leeds and Grenville, the South Riding of Leeds, and the South Riding of Grenville:

The North Riding of Leeds and Grenville shall consist of the Townships of Kitley, Elmsley, Wolford, Oxford, and South Gower ;

The South Riding of Leeds shall consist of the Townships of Rear of Yonge and Escott, Front of Yonge, Front of Escott, Front of Leeds and Landsdowne, Rear of Leeds and Lansdowne, South Crosby, North Crosby, Bastard and Burgess.

For representation in the Ontario Assembly, Front of Yonge and Rear of Yonge and Escott, have been taken from South Riding and added to Brockville. 38 V., c. 2, s. 17 (Ont.)

The South Riding of Grenville shall consist of the Townships of Edwardsburgh and Augusta, and the Town of Prescott ;

(12.) THE COUNTY OF WELLINGTON *was divided by this Act* Wellington.
into two Ridings, called respectively the South Riding and the North Riding. The B. N. A. Act substituted others, but they were altered by 35 V. c. 13 (Dom.), and the following are the present divisions as fixed by that Act. See page 51, post.

The North Riding to consist of the Townships of Maryborough, Minto, Arthur, Luther, and Amaranth, and the Villages of Mount Forest and Arthur.

The Centre Riding to consist of the Townships of Pilkington, Elora, Nichol, Fergus, Garafraxa West, Garafraxa East, Peel, and the Village (now Town) of Orangeville.

The South Riding to consist of the Townships of Puslinch, Guelph, Eramosa and Erin, and the Town of Guelph.

For Representation in the Ontario Assembly, part of the County of Wellington is included in the new County of Dufferin, and the portion of Wellington which remains after constituting the County of Dufferin, is divided into Three Ridings. See 38 V., c. 2, s. 10 (Ont.)

(13.) THE COUNTY OF WATERLOO shall be divided into two Waterloo.
Ridings, to be called respectively, the North Riding and the South Riding :

By 23 V., c. 40, s. 1, the second paragraph of this sub-section was amended so as to read as follows :—

The North Riding shall consist of the Townships of North Waterloo, Woolwich and Wellesley, the Town of Berlin and the Village of Waterloo.

The South Riding shall consist of the Town of Galt and Village of Preston, and the Townships of South Waterloo, North Dumfries and Wilmot ;

The present Township of Waterloo being divided, for the Township of Waterloo.
purposes of Representation only, into two Townships, to be called respectively the Township of North Waterloo and the

Township of South Waterloo: The Township of North Waterloo shall include and consist of that part of the present Township of Waterloo lying within the following limits, that is to say: commencing at the south-west angle of lot Number Forty-six in the said Township, thence easterly along the southerly limits of the said lot, and of the lots Numbers forty-seven, forty-eight, fifty, fifty-one and fifty-three, and the prolongation thereof, to the middle of the Grand River, thence along the middle of the said River against the stream to the prolongation of the limit between Lots Numbers one hundred and thirteen and one hundred and fourteen, and along the prolongation of the limit between the said Lots Numbers one hundred and thirteen and one hundred and fourteen, and along the limits between the said lots Numbers one hundred and thirteen and one hundred and fourteen northerly and easterly, to the westerly limits of Lot one hundred and seven, thence along the westerly limits of the said Lot Number one hundred and seven, northerly to the northerly limits thereof, thence along the northerly, limits of the said Lot Number one hundred and seven and of Lots Number one hundred and six, eighty-four and ninety-six, easterly to the easterly boundary of the said Township, thence along the easterly, northerly and westerly boundaries of the said Township, in a northerly, westerly and southerly direction respectively, to the place of beginning: And the Township of South Waterloo to include and consist of all the remaining part of the said present Township of Waterloo;

Brant.

(14.) THE COUNTY OF BRANT shall be divided into two Ridings, to be called respectively the East Riding and the West Riding;

These Ridings are called in the B. N. A. Act, "North" and "South"

The East Riding shall consist of the Townships of South Dumfries, Onondaga, East Brantford, and the Village (*now Town*) of Paris;

The West Riding shall consist of the Townships of Burford, Oakland, Tuscarora, West Brantford, and the Town of Brantford;

Township of
Brantford.

The present Township of Brantford being divided, for the purposes of Representation only, into the Townships of East Brantford and West Brantford: The Township of East Brantford shall include and consist of all that portion of the present Township of Brantford which lies on the east side of the Grand River: And the Township of West Brantford shall include and consist of all the remainder of the present Township of Brantford;

Elgin.

(15.) THE COUNTY OF ELGIN shall be divided into two Ridings, to be called respectively the East Riding and the West Riding:

The East Riding shall consist of the Townships of Bayham, Malahide, Yarmouth, South Dorchester and the Village (*now Town*) of St. Thomas ;

The West Riding shall consist of the Townships of Southwold, Dunwich and Aldborough.

9. *Related to Counties of Huron and Bruce, and Lennox and Addington, then united for purposes of Representation, but now separate, and constituted as follows :*

THE COUNTY OF HURON *was divided by the B. N. A. Act, Huron. (Sched. 1, Nos. 47, 48.) into two Ridings, which were abolished by 35 V., c. 13, s. 2 (Dom.), and the following are now the Ridings of that County. See page 50, post.*

The North Riding to consist of the Townships of Howick, Ashfield, West Wawanosh, East Wawanosh, Morris and Turnberry ;

The Centre Riding to consist of the Townships of Colborne, Hullet, McKillop, Tuckersmith, Grey, the Town of Goderich, and the Village (*now Town*) of Seaforth ;

The South Riding to consist of the Townships of Goderich, Stanley, Hay, Stephen, Usborne and the Village (*now Town*) of Clinton.

For representation in the Ontario Assembly the County of Huron is divided into three Ridings differing from the above. See 38 V., c. 2, s. 2 (Ont.)

THE COUNTY OF BRUCE *was divided by the B. N. A. Act, Bruce. (Sched. 1, Nos 45, 46,) into the following Ridings :—*

The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albermarle, Amable, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.

The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross and Carrick.

The South Riding includes for representation in the Ontario Assembly the Village of Lucknow. See 38 V., c. 2, s. 19 (Ont.)

THE COUNTY OF LENNOX *was constituted by the B. N. A. Act, Lennox. as follows. (See B. N. A. Act, Sched. 1, No. 78.)*

The County of Lennox to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernestown and Amherst Island, and the Village (*now Town*) of Napanee.

THE COUNTY OF ADDINGTON *was constituted by the B. N. A. Act as follows. (See B. N. A. Act, Sched. 1. No. 79.)*

The County of Addington to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough and Bedford.

Each of the other Counties in U. C. to be an Electoral Division.

(1.) Each of the other Counties in Upper Canada, that is to say, each of the Counties of Carleton, Dundas, Essex, *Frontenac*, Glengarry, Grey, *Haldimand*, Halton, Kent, Lambton, Lincoln, Norfolk, Peterborough, Peel, Perth, Prescott, Prince Edward, Renfrew, Russell, Stormont, Victoria and Welland, shall form an Electoral Division;

Special provision as to Carleton and Russell.

(2.) But the Townships of Gloucester and Osgoode shall, for the purpose of representation only, be detached from the County of Carleton and attached to the County of Russell.

For representation in the House of Commons the Counties printed in italics in the first sub-section above were reconstructed by the B. N. A. Act. The Counties so reconstructed, with the various changes since made in them, appear below, in the order in which the original Counties are named in the above first sub-section.

The other Counties named in this sub-section were not altered by the B. N. A. Act, and have not since been altered for representation in the House of Commons.

Essex.

THE COUNTY OF ESSEX, for Representation in the Ontario Assembly only, is divided into two Ridings, by 38 V., c. 2 sec. 6 (Ont.)

Frontenac.

THE COUNTY OF FRONTENAC was constituted as follows. See B. N. A. Act, Sched. 1, No. 80.

The County of Frontenac to consist of the Townships of Kingston, Wolfe Island, Pittsburg and Howe Island, and Storrington.

Grey.

THE COUNTY OF GREY was divided by the B. N. A. Act into two Ridings. They were abolished, and three Ridings substituted as follows, by 35 V., c. 13, sec. 2 (Dom.) See page 50, post.

The North Riding to consist of the Townships of Holland, Sullivan, Sydenham, Derby, Sarawak, Keppel and the Town of Owen Sound;

The East Riding to consist of the Townships of Proton, Melancthon, Osprey, Artemisia, Collingwood, Euphrasia and St. Vincent;

The South Riding to consist of the Townships of Normanby, Egremont, Bentinck and Glenelg.

For Representation in the Ontario Assembly, part of the County of Grey is included in the new County of Dufferin, and the portion of Grey which remains after constituting the County of Dufferin is divided into three Ridings differing from above. See 38 V. c. 2. sec. 9 (Ont.)

Haldimand.

THE COUNTY OF HALDIMAND was constituted of certain Townships by the B. N. A. Act (Sched. 1, No. 63) but was reconstructed as follows, by 35 V. c. 13, sec. 2 (Dom.) See page 50, post.

The County of Haldimand shall consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham and Walpole.

THE COUNTY OF KENT *was constituted by the B. N. A. Act, Kent. Sched. 1, No. 52), as follows :*

The County of Kent to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh and Harwich, and the Town of Chatham.

For Representation in the Ontario Assembly the Municipal County of Kent is divided into two Ridings. See 38 V. c. 1 sec. 4 (Ont.)

THE COUNTY OF LAMBTON *was constituted by the B. N. A. Lambton. Act (Sched. 1., No. 51), as follows :*

The County of Lambton to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.

For Representation in the Ontario Assembly the Municipal County of Lambton is divided into two Ridings. See 38 V., c. 2, sec. 5 (Ont.)

THE COUNTY OF LINCOLN *was constituted by the B. N. A. Act, Lincoln. (Sched. 1, No. 65), as follows :*

The County of Lincoln to consist of the Townships of Clinton, Grantham, Grimsby and Louth, and the Town of St. Catherine's.

THE COUNTY OF NORFOLK *was divided by the B. N. A. Act, Norfolk. (Sched. 1, Nos. 61, 62) into two Ridings, as follows :—*

The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.

The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.

THE COUNTY OF PETERBOROUGH *was divided into two Ridings Peterborough. by the B. N. A. Act (Sched. 1, Nos. 73 and 74), as follows :—*

The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.

The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

By Ont. Act, 37 V. c. 65, some of the above Townships were taken from Peterborough to form the Provisional County of Haliburton, and what remains of Peterborough is divided for Representation in the Ontario Legislature into two Ridings. See 38 V. c. 2 secs. 14 and 15 (Ont.)

THE COUNTY OF PEEL *was constituted by the B. N. A. Act, Peel. (Sched. 1, No. 67) as follows :*

The County of Peel to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.

Perth.

THE COUNTY OF PERTH *was divided by the B. N. A. Act, (Sched. 1, Nos. 56, 57) into the two following Ridings:—*

The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.

The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell (*now a Town*) and St. Marys.

Renfrew.

THE COUNTY OF RENFREW *was divided by the B. N. A. Act (Sched. 1. Nos. 81, 82,) into two Ridings which were reconstructed by 35 V. c. 13, sec. 2 (Dom.) See page 52, post.*

The Townships of Hagarty, Richards, Sherwood, Burns and Jones which had been attached to the North Riding were transferred to the South Riding and the Ridings therefore stand at present as follows:

The South Riding consists of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Gratton, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, the Villages of Arnprior and Renfrew, and the Townships of Hagarty, Richards, Sherwood, Burns and Jones.

The North Riding consists of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, and any other surveyed Townships lying North-westerly of the said North Riding.

The same change has been made for purposes of Representation in the Ontario Assembly. 38. V. c. 2. sec. 16. (Ont.)

Victoria.

THE COUNTY OF VICTORIA, *was divided by the B. N. A. Act (Sched. 1. Nos. 71, 72,) into the two following Ridings:*

The South Riding to consist of the Townships of Ops, Mariposa, Emily Verulam, and the Town of Lindsay.

The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville and Morrison, Muskoka, Monk and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the North of the said North Riding.

By 35 V. c. 13. sec. 2 (Dom.), the North Riding was to include the same Townships as it did before the passing of 35 V. c. 13 (Dom.), except the Townships (which are printed in Italics) included by that Act in the Electoral District of Muskoka then first formed. See page 51, post.

For Representation in the Ontario Assembly also the North Riding has been reconstructed. See 38 V. c. 2 sec. 12. (Ont.)

THE COUNTY OF WELLAND *was constituted by the B. N. A. Welland. Act (Sched. 1, number 66), as follows:—*

The County of Welland to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold and Willoughby, and the Villages of Chippewa, Clifton, (*now a Town*) Fort Erie, Thorold (*now a Town*) and Welland.

(3.) THE CITY OF TORONTO *formed one Electoral District, City of Toronto. afterwards two, by 23 V., c. 1, sec. 3. Now, by 35 V., c. 13, sec. 2, it forms three Electoral Districts, and returns three Members. See page 51, post.*

(4.) THE CITY OF KINGSTON shall form an Electoral Division ; *City of Kingston.*

(5.) THE CITY OF HAMILTON shall form an Electoral Division ; *City of Hamilton. Hamilton now returns two members. See 35 V. c. 13, sec. 2. (Dom.) See page 51, post.*

(6.) THE TOWN OF BROCKVILLE shall form an Electoral Division, *Town of Brockville.* and shall, for the purpose of Representation only, include in addition to its present limits, the whole of the Township of Elizabeth-Town, which shall for the said purpose be detached from the County of Leeds ;

This Electoral Division was altered by 38 V. c. 2, sec. 17 (Ont.), for Representation in the Ontario Assembly.

(7.) THE TOWN OF NIAGARA shall form an Electoral Division, *Town of Niagara.* and shall, for the purpose of Representation only, include, in addition to its present limits, the whole of the Township of Niagara, which shall for the said purpose be detached from the County of Lincoln ;

This Electoral Division is attached for purposes of Representation in the Ontario Assembly to the Electoral District of the County of Lincoln. See 38 V. c. 2 sec. 18 (Ont.)

(8.) THE TOWN OF CORNWALL shall form an Electoral Division, *Town of Cornwall.* and shall for the purpose of Representation only, include, in addition to its present limits, the whole of the Township of Cornwall, which shall be detached from the County of Stormont ;

9. THE CITY OF LONDON shall form an Electoral Division ; *City of London*

10. THE CITY OF OTTAWA shall form an Electoral Division. *City of Ottawa*

Ottawa now returns two members. See 35 V. c. 13, sec. 2. (Dom.) See page 51, post.

REPRESENTATION.

10. Relates to Lower Canada only.

And those in
U. C.

2. *Related to representation of City of Toronto and of the other Electoral Divisions. Superseded by 35 V. c. 13, sec. 2, as to Toronto, and as to the others by B. N. A. Act, sec. 40.*

In addition to the Electoral Districts named above, the B. N. A. Act constituted the following.

NEW ELECTORAL DISTRICTS.

(1) THE PROVISIONAL JUDICIAL DISTRICT OF ALGOMA.
(*See B. N. A. Act, Sched. 1, No. 44.*)

(2) THE COUNTY OF BOTHWELL, *which was constituted as follows, (B. N. A. Act, Sched. 1, No. 53):*

The County of Bothwell to consist of the Townships of Sombra, Dawn and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden, with the Gore thereof, Orford and Howard (taken from the County of Kent).

The County of Bothwell is included for Representation in the Ontario Assembly in the Electoral Divisions of Kent and Lambton. See 38 V. c. 2, secs. 3, 4 and 5 (Ont.)

(3) THE COUNTY OF MONCK—*This County was reconstructed as follows, by 35 V. c. 13, sec. 2 (Dom.) See page, 51 post.*

The County of Monck shall consist of the Townships of Canborough and Moulton, and Sherbrooke and Dunn, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caistor and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).

For Representation in Ontario Assembly, Monck remains as in B. N. A. Act, that is the same as above, omitting the Township of Dunn.

(4) THE COUNTY OF CARDWELL *which was constituted as follows, B. N. A. Act, Sched. 1, No. 68:—*

The County of Cardwell to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

For Representation in the Ontario Assembly Cardwell has been changed. See 38 V. c. 2, sec. 8 (Ont.)

By 35 V. c. 13, sec. 2 (Dom.) the ELECTORAL DISTRICT OF MUSKOKA was also added to be constituted as follows: See page 51, post.

The Townships of Morrison, Ryde, Muskoka, Draper, Oakley, Wood, Monck, Macauley, McLean, Medora, Watt, Stephenson, Brunel, Humphrey, Cardwell, Stisted, Chaffey, Christie, Monteith, McMurich, Matchitt, Ryerson, Spence, McKellar, McDougall, Ferguson, Carling, Hagerman, Croft, Chapman, Ferrie, Mackenzie, Wilson, Brown, Blair

Mowat, Cowper, Conger, Parry Island, Parry Sound, Aumick Lake Territory, Maganetawan, and all other surveyed Townships lying north of the North Riding of Victoria, and south of the Nipissing District, shall form the Electoral District of Muskoka.

For Representation in the Ontario Assembly new Electoral Divisions have also been formed.

1. THE COUNTY OF DUFFERIN. *See 38 V. c. 2 sec. 7 (Ont.)*

3. THE ELECTORAL DISTRICT OF MUSKOKA AND PARRY SOUND. *See 38 V. c. 2 sec. 11 (Ont.)*

23 VICT. CAP. 40.

An Act to amend the Act respecting the representation of the People in the Legislative Assembly, and the Act respecting the Territorial Division of Upper Canada.

[Assented to 19th May, 1860.]

HER Majesty, by and with the advice and consent of the Preamble.
Legislative Council and Assembly of Canada, enacts
as follows :

1. The second paragraph of sub-section number thirteenth of the eighth section of chapter two of the Consolidated Statutes of Canada, is hereby amended so as to read as follows: "The North Riding shall consist of the Townships of North Waterloo, Woolwich and Wellesley, the Town of Berlin and the Village of Waterloo." North Riding of Waterloo, defined.

2. The express mention, in the said chapter as hereby amended, or in chapter two of the Consolidated Statutes for Upper Canada, of certain Towns and Villages as being included in certain Counties or Ridings in Upper Canada, in which they would have been included respectively without such express mention, under the general provisions in that behalf contained in the said chapters, shall not prevent the application of such provisions to the cases of Towns and Villages not expressly mentioned in either of said chapters. Express mention of certain towns or villages as included in any county not to exclude others not mentioned but within its limits.

3. And whereas by error the Township of "Morrison," in the North Riding of the County of Simcoe, has, in both the said Acts, been called the Township of "Robinson," therefore the enumeration of the Townships, included in the North Riding of the said County, in the tenth sub-section of the eighth section of the Act first above cited, and the enumeration of the Townships, included in the said County, in the twentieth sub-section of the first section of the Act secondly above cited, shall be respectively amended by striking out of each of them the word "Robinson" and inserting in lieu thereof the word "Morrison." Error in description of townships in North Riding of Simcoe corrected.

35 VICT. CAP. 13.

An Act to re-adjust the Representation in the House of Commons.

[Assented to 14th June, 1872.]

Preamble.

WHEREAS, by the Census of the year one thousand eight hundred and seventy-one, and in accordance with the "*British North America Act, 1867*," the Province of Ontario is entitled to six additional members in the House of Commons, the Province of Nova Scotia to two additional members, and the Province of New Brunswick to one additional member, the same being severally in excess of the number of members of the House of Commons for each of the said Provinces, as provided by the *British North America Act, 1867*: And whereas it is expedient otherwise to re-adjust the boundaries of certain of the electoral districts; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Representation of each Province.

1. The House of Commons shall consist of Two hundred members, of whom Eighty-eight shall be elected for Ontario, Sixty-five for Quebec, Twenty-one for Nova Scotia, Sixteen for New Brunswick, Four for Manitoba, and Six for British Columbia.

Ontario, Quebec, Nova Scotia, and New Brunswick, to remain as at present, except where expressly altered.

2. The Provinces of Ontario, Quebec, Nova Scotia and New Brunswick shall, for the purposes of the election of Members to serve in the House of Commons, continue to be divided into the Electoral Districts established by the "*British North America Act, 1867*," each represented as it now is, except where altered by this Act, as follows, that is to say:—

ONTARIO.

Huron.

1. The County of Huron shall be divided into three Ridings, to be called respectively the North, the Centre and the South Riding, each of which shall be an Electoral District and shall return one member;

The North Riding to consist of the Townships of Howick, Ashfield, West Wawanosh, East Wawanosh, Morris and Turnberry;

The Centre Riding to consist of the Townships of Colborne, Hullet, McKillop, Tuckersmith, Grey, the Town of Goderich and the Village of Seaforth;

The South Riding to consist of the Townships of Goderich, Stanley, Hay, Stephen, Usborne and the Village of Clinton.

Grey.

2. The County of Grey shall be divided into three Ridings, to be called respectively the North, the East, and the South Riding, each of which shall be an Electoral District, and shall return one member;

The North Riding to consist of the Townships of Holland, Sullivan, Sydenham, Derby, Sarawak, Keppel and the Town of Owen Sound ;

The East Riding to consist of the Townships of Proton, Melanethon, Osprey, Artemisia, Collingwood, Euphrasia and St. Vincent ;

The South Riding to consist of the Townships of Normanby, Egremont, Bentinck and Glenelg.

3. The Townships of Morrison, Ryde, Muskoka, Draper, Muskoka. Oakley, Wood, Monck, Macauley, McLean, Medora, Watt, Stephenson, Brunel, Humphrey, Cardwell, Stisted, Chaffey, Christie, Monteith, McMurrich, Matchitt, Ryerson, Spence, McKellar, McDougall, Ferguson, Carling, Hagerman, Croft, Chapman, Ferrie, Mackenzie, Wilson, Brown, Blair, Mowat, Cowper, Conger, Parry Island, Parry Sound, Aumick Lake Territory, Maganetawan, and all other surveyed townships lying north of the North Riding of Victoria, and south of the Nipissing District, shall form the Electoral District of Muskoka, and shall return one member.

4. The City of Toronto, shall be divided into three Electoral Toronto. Districts, to be called respectively West Toronto, East Toronto and Centre Toronto, each of which shall return one member ;

West Toronto to consist of the wards as at present constituted of St. Andrew, St. George and St. Patrick ;

East Toronto to consist of the wards as at present constituted of St. David and St. Lawrence ;

Centre Toronto to consist of the wards as at present constituted of St. John and St. James.

5. The City of Hamilton shall return two members.

Hamilton.

6. The City of Ottawa shall return two members.

Ottawa.

7. The County of Haldimand, shall consist of the Townships Haldimand of Oneida, Seneca, Cayuga North, Cayuga South, Rainham and Walpole.

8. The County of Monck, shall consist of the Townships of Monck. Canborough, and Moulton and Sherbrooke and Dunn, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caistor and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).

9. The County of Wellington shall be divided into three Wellington. Ridings, to be called respectively the North, Centre and South Riding, each of which shall be an Electoral District, and shall return one member ;

The North Riding to consist of the Townships of Maryborough, Minto, Arthur, Luther and Amaranth, and the Villages of Mount Forest and Arthur ;

The Centre Riding to consist of the Townships of Pilkington, Elora, Nichol, Fergus, Garrafraxa West, Garrafraxa East, Peel and the Village of Orangeville ;

The South Riding to consist of the Townships of Puslinch, Guelph, Eramosa and Erin, and the Town of Guelph.

10. The North Riding of the County of Victoria shall in- Victoria.

clude and consist of the same Townships as it did before the passing of this Act, except those included by this Act in the Electoral District of Muskoka.

Renfrew.

11. The Townships of Hagarty, Richards, Sherwood, Burns and Jones shall be added to, and included in, the South Riding of the County of Renfrew.

The remainder of this section does not relate to Ontario.

Commence-
ment of this
Act.

3. This Act shall take effect upon from and after the termination of this present existing Parliament.

37 VICT. CAP. 12.

An Act to attach the Village of Richmond Hill to the Electoral District of the West Riding of the County of York.

[Assented to 26th May, 1874.]

Preamble.

WHEREAS the Village of Richmond Hill, which has been lately incorporated, is situated partly in the Electoral District of the West Riding of the County of York, and partly in the Electoral District of the East Riding of the said county; and whereas the corporation of the said village has, by petition, prayed that the said village may be attached to the Electoral District of the West Riding of the County of York; and it is expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Village of
Richmond Hill
to be part of
West Riding
of York

1. From and after the passing of this Act, the incorporated Village of Richmond Hill shall, for purposes of elections to the House of Commons of Canada, be attached to and form part of the Electoral District of the West Riding of the County of York.

37 VICT. CAP. 9.

• An Act respecting the Elections of Members of the House of Commons.

[Assented to 26th May, 1874.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Every writ for the election of a member of the House of Commons of Canada shall be dated and be returnable on such days as the Governor-General shall determine, and shall be addressed to the Sheriff or to the Registrar of Deeds, or to one of the Sheriffs or of the Registrars for the Electoral District or a portion of the Electoral District for which the election is to take place who shall be the Returning Officer at such election;

Writs of Election, and Returning Officers.

And in case there is no such Sheriff or Registrar, then to such other person as the Governor-General may appoint as such Returning Officer;

In case the Sheriff, the Registrar, or any other person to whom the writ for any Electoral District in the Province of Ontario or in the Province of Quebec, may have been addressed should refuse, be disqualified or be unable to act, then the Governor-General, and in the other Electoral Districts the Lieutenant-Governors in their respective Provinces, may appoint another person to act as such Returning Officer.

2. The Governor-General shall fix the day for the nomination of candidates at the election, and shall, at every general election, fix one and the same day for the nomination of candidates in all the Electoral Districts, except in the Electoral Districts in the Provinces of Manitoba and of British Columbia, and in the Electoral Districts of Muskoka and Algoma, in the Province of Ontario, and of Gaspé and Chicoutimi and Saguenay, in the Province of Quebec.

Day of nomination of Candidates, how fixed. Exceptions

Clause relating to the Province of Manitoba.

Manitoba.

3. The day so fixed by the Governor-General shall be named in the writs of election for the several Electoral Districts respectively, to which such day shall apply.

To be named in the writs.

4. The writs of election shall be in the form Schedule A and shall be transmitted by mail to the respective Returning Officers, unless otherwise ordered by the Governor-General.

Form of writ, &c

5. None of the persons hereinafter mentioned shall be appointed Returning Officers, or Deputy Returning Officers, Election Clerks or Poll Clerks, that is to say:—

Who shall not act as Election Officers.

Firstly: Members of the Queen's Privy Council for Canada or of the Executive Council of any of the Provinces of the Dominion;

Secondly: Members of the Senate or Members of the Legislative Council of any of the Provinces of the Dominion;

Thirdly : Members of the House of Commons or Members of the Legislative Assemblies of the several Provinces of the Dominion ;

Fourthly : Ministers, Priests, or Ecclesiastics of any religious faith or worship ;

Fifthly : Judges of the Courts of Superior, Civil and Criminal jurisdiction, or judges of any County or District Court, Insolvent Court or Vice-Admiralty Court ;

Sixthly : Persons who have served in the Parliament of the Dominion in the session immediately preceding the election, or in the then present session of Parliament ;

Seventhly : Sheriffs, Registrars, or other persons who shall have been found guilty by the House of Commons, or by any Court for the trial of Controverted Elections, or other competent tribunal, of any offence or dereliction of duty under this Act.

Who shall not
be bound to
act as such.

6. None of the persons hereinafter mentioned, unless they are Sheriffs or Registrars or Town Clerks or Assessors, shall be obliged to act as Returning Officers, Deputy Returning Officers, Election Clerks or Poll Clerks, that is to say :—

Firstly : Professors in any University, College, High School, or Academy ;

Secondly : Physicians or Surgeons ;

Thirdly : Millers ;

Fourthly : Postmasters, Customs Officers, or Clerks in Post Offices or Customs Offices ;

Fifthly : Persons being sixty years of age or upwards ;

Sixthly : Persons having previously served as Returning Officers at the election of a member for the House of Commons.

Endorsing
receipt, and
oath of Re-
turning Offi-
cer.

7. On receiving the writ of Election, the Returning Officer shall forthwith endorse thereon the date at which he shall have received the same, and before taking any further action thereon, he shall take the oath of office in the form Schedule B to this Act.

Appointment
of Election
Clerk.

8. The Returning Officer, by a commission under his hand, and in the form, Schedule C of this Act, shall appoint an Election Clerk, and may, at any time during the election, appoint, in the same manner, another Election Clerk, in case the one so appointed shall resign, refuse or be unable to perform his duties as such.

9. The duty of the Election Clerk shall be to assist the Returning Officer in the performance of his duties, and to act in his stead as Returning Officer, whenever the Returning Officer shall be disqualified, or unable, or shall refuse to perform his duties, and shall not have been replaced by another.

10. The Election Clerk shall, before acting as such, take the oath of office in the form, Schedule D to this Act.

11. The Returning Officer shall ascertain from the lists of voters, which, under the provisions of this Act, are to be used at the election, and, in Electoral Districts where there are voters entitled to vote but there are no lists of voters, from such other information as may be within his reach—the number of, or probable number of persons qualified to vote in each city, town, ward, parish, township, local municipality or other locality, where voters are so entitled to vote; and if such city, town, ward, parish, township, local municipality or other locality has not been subdivided for electoral purposes into polling districts by the Legislature, or by the local authorities under the legislation of the Province wherein such Electoral District is situate, or where such subdivision comprises more than three hundred voters, he shall subdivide the said city, town, ward, parish, township, local municipality or other locality or subdivision, into polling districts in a convenient manner, so that there shall be at least one polling district for every two hundred voters; and he shall also fix a polling station in a central and convenient place in each polling district; and the Returning Officer may in his discretion grant such additional polling places in such polling districts as the extent of the district and the remoteness of any body of its voters from the polling place may render necessary, although the voters thereof may be less than the number above specified.

12. In the Electoral Districts in the Province of British Columbia, and in the Electoral Districts of Muskoka and Algoma, in the Province of Ontario, and of Gaspé, in the Province of Quebec, the Returning Officers shall fix the day for the nomination of candidates, and also the day and places for holding the polls. The nomination in any of the said Electoral Districts shall not take place less than fifteen days nor more than thirty days after the proclamation hereinafter required shall have been posted up, and the day for holding the polls shall not be less than fifteen days nor more than thirty days after the day on which the nomination is to take place,—neither the day of nomination nor the day of posting the proclamation being reckoned:

(Clause relating to Chicoutimi and Saguenay.)

In Chicoutimi and Saguenay.

In all the other Electoral Districts the proclamation hereinafter required shall be posted up, at least eight days before the day fixed for the nomination of candidates; and the day for

Polling days in other districts.

holding the polls shall be the seventh day next after the expiration of the day fixed for the nomination of candidates, that is on the same or corresponding day of the week next after that on which the nomination shall have taken place, or if such seventh day be a Sunday or a statutory holiday, then on the next following day not being a Sunday nor a statutory holiday.

Cases of unforeseen delays provided for.

13. In cases when, from unforeseen delays, accident or otherwise, the proclamation hereinafter mentioned could not be posted up so as to leave the required delay between the posting up of the proclamation and the nomination day appointed by the Governor-General, or by the Returning Officer, as the case may be, or in case any candidate should die after being nominated and before the close of the polls, the Returning Officer may fix another day for the nomination of candidates,—which day shall be the nearest day possible after allowing the number of days required by the preceding section between the posting up of the proclamation and the nomination day; and in every such case the Returning Officer shall, with his return, make to the Clerk of the Crown in Chancery a special report of the causes which may have occasioned the postponement of the election.

Proclamation by Returning Officer.

14. Within twenty days after the reception of the writ in the Electoral Districts of the Province of British Columbia, and in the Electoral Districts of Muskoka and Algoma, in the Province of Ontario, and in those of Gaspé and Chicoutimi and Saguenay, in the Province of Quebec, and within eight days after such reception in the other Electoral Districts of the Dominion, the Returning Officer shall, by a proclamation under his hand, issued in the English and French languages in every Electoral District in the Province of Quebec and in the Province of Manitoba, and in the English language only in the other Electoral Districts, indicate,—

Firstly : The place and time fixed for the nomination of candidates ;

Secondly : The day on which the poll for taking the votes of the electors is to be held, in case a poll shall be required ;

Thirdly : The several polling stations fixed by him, and the territorial limits to which they shall respectively apply ;

Fourthly : The time when and the place where the Returning Officer shall sum up the number of votes given to the several candidates,—

Form.

Such proclamation to be in the form, Schedule E to this Act.

How to be published.

15. The Returning Officer shall cause the said proclamation to be posted up at four of the most prominent and conspicuous places in each city, town, village (or ward of such city, town,

or village, when it is sub-divided into wards), and at four of the most prominent and conspicuous places in each parish, township or division of parish or township, within the Electoral District for which the election is to take place.

16. The place fixed for the nomination of candidates shall be at the court house, city or town hall, or other public or private building, in the most central or most convenient place for the great body of the electors of each Electoral District. Place of nomination

17. The time appointed for the nomination of candidates shall be from the hour of twelve at noon until the hour of two in the afternoon of the day fixed for that purpose. Time.

18. Any twenty-five electors may nominate a candidate or as many candidates as may be required to be elected for the Electoral District for which the election is held, by producing to the Returning Officer at the time and place indicated in the proclamation,—a writing in the form of Schedule F., under their hands, giving the names, residence and addition or description of each person proposed, in such manner as sufficiently to identify such candidate: Form of nomination.

Each candidate shall be nominated by a separate nomination paper; but the same electors, or any of them, may subscribe as many nomination papers as there are members to be elected: Each candidate separately.

Such nomination papers may also be filed with the Returning Officer at any other place, and at any time between the date of the proclamation and the day of nomination, with the same effect as if produced at the time and place fixed for the nomination; and at the close of the time for nominating the candidates, the Returning Officer shall deliver to every candidate or agent of a candidate applying for the same, a duly certified list of the names of the several candidates who shall have been nominated. And any votes given at the election for any other candidates than those so nominated shall be null and void. Nomination papers may be filed with Receiving Officer at other places and times.

19. No nomination paper shall be valid and acted upon by the Returning Officer unless it be accompanied by the consent in writing of the person therein nominated, except in case such person be absent from the Province in which the election is to be held, when such absence shall be stated in the nomination paper; Votes for candidates not nominated, null.

Nor unless a sum of fifty dollars be paid to the Returning Officer at the time the nomination paper shall be filed with him: And the receipt of the Returning Officer shall in every case be sufficient evidence of the production of the nomination paper, consent of candidate, and of the payment herein mentioned: Consent of candidate named.

The sums so paid shall be applied by the Returning Officer towards the payment of the election expenses. And deposit of fifty dollars.

The sums so paid shall be applied by the Returning Officer towards the payment of the election expenses. Application of deposit.

No real property qualification required of candidate.

Proviso;
He must be a British subject.

20. From and after the passing of this Act no qualification in real estate shall be required of any candidate for a seat in the House of Commons of Canada any Statute or law to the contrary notwithstanding: but such candidate shall be either a natural-born subject of the Queen, or a subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, New Brunswick, Manitoba, British Columbia or Prince Edward Island, or of this Parliament.

Nomination paper, how to be attested.

21. The Returning Officer shall require the person or one or more of the persons producing such nomination paper to make oath before him, that he or they know the several persons who have signed such nomination paper to be electors duly entitled to vote; and that they have signed the same in his or their presence; and that the consent of the candidate has been signed in his or their presence, or that the person named as candidate is absent from the Province, as the case may be. This oath may be in the form, Schedule G to this Act, and its having been taken shall be mentioned on the back of the said nomination paper.

Return when no more candidates than members to be elected.

22. Whenever only one candidate, or only such a number of candidates as are required by law to be elected to represent the Electoral District for which the election is held have been nominated within the time fixed for that purpose, the Returning Officer shall make his return to the Clerk of the Crown in Chancery that such candidate or candidates, as the case may be, is or are duly elected for the said Electoral District, of which return he shall send within forty-eight hours a duplicate or certified copy to the person or persons elected, and such return shall be in the form, Schedule H to this Act.

Report with return.

23. The Returning Officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings and of any nomination proposed and rejected for non-compliance with the requirements of this Act.

Poll, and notice thereof.

24. If more candidates than the number required to be elected for the Electoral District are nominated in the manner required by this Act, it shall be the duty of the Returning Officer to grant a poll for taking the votes of the electors; and to cause to be posted up notices of his having granted such poll, indicating the names, residences and occupations of the candidates so nominated, in the order in which they shall be printed on the ballot papers hereinafter mentioned; which notices shall, as soon as possible after the nomination, be placarded at all the places where the proclamation for the election was posted up. Such notices shall be in the form of Schedule HH to this Act.

Form.

25. Any candidate nominated may withdraw at any time after his nomination and before the closing of the poll, by filing with the Returning Officer a declaration in writing to that effect, signed by himself; and any votes cast for the candidate who shall have so withdrawn shall be null and void: and in case, after the withdrawal, there should remain but one candidate, or no more than the number to be elected, then it shall be the duty of the Returning Officer to return as duly elected the candidate or candidates so remaining, without waiting for the day fixed for holding the poll, or for the closing of the poll if such withdrawal be filed on the polling day.

Withdrawal of candidates.
If no more remain than there are members to be elected.

26. Whenever a poll has been granted, the same shall be opened at the hour of nine of the clock in the forenoon, and kept open until five o'clock in the afternoon, of the day fixed for holding it; and the votes at the several polling stations shall be given on that day and by ballot.

Hours for polling.

27. The ballot of each voter shall be a paper (in this Act called a ballot paper) showing the names and description of the candidates alphabetically arranged in the order of their surnames, or if there be two or more candidates with the same surname, in the order of their other names, and the ballot paper shall be in the form, Schedule I to this Act.

Ballot paper and form of.

28. On a poll being granted, it shall be the duty of the Returning Officer,—

Duties of Returning Officer when a poll is required.

Firstly: To appoint, by a commission under his hand, in the form, Schedule J to this Act, one Deputy Returning Officer for each polling district comprised in the Electoral District, who shall, before acting as such, take the oath of office in the form, Schedule K to this Act;

Deputies.

Secondly: To furnish each Deputy Returning Officer with a copy of the list, or of such portion of the list of voters as contains the names, arranged alphabetically, of the electors qualified to vote at the polling station for which he is appointed,—such copy being first certified by himself or by the proper custodian of the lists from which such copies are taken;

List of voters.

Thirdly: To deliver to each Deputy Returning Officer, two days at least before the polling day, a ballot box to receive the ballot papers of the voters,—which ballot box shall be made of some durable material, with one lock and key, and a slit or narrow opening in the top, and so constructed that the ballot papers may be introduced therein, but cannot be withdrawn therefrom without the box being unlocked;

Ballot Box.

Fourthly: To furnish each Deputy Returning Officer with a sufficient number of ballot papers and envelopes, (all being of the same description, and as nearly as possible alike) to supply

Ballot papers.

the number of voters on the list of such polling district, and with the necessary materials for voters to mark their ballot papers ;

Directions for voters. *Fifthly:* To furnish each Deputy Returning Officer at least ten copies of printed directions for the guidance of voters in voting,—which printed directions the Deputy Returning Officer shall, before or at the opening of the poll, on the day of polling, cause to be posted up in some conspicuous places outside of the polling station, and also in each compartment of the polling station.

Obtaining lists of voters. **29.** The Returning Officer shall obtain the different lists of voters, or copies or extracts thereof, from the Registrars, Town Clerks, Clerks of the Peace or such other officers as may by law be the proper custodians of such lists, or of duly certified duplicates or copies thereof ; and every such officer who shall omit or refuse to furnish such lists, copies or extracts of the voters lists within a reasonable time to the Returning Officer requiring the same, shall incur a penalty of not less than two hundred and not exceeding two thousand dollars.

If ballot box be not furnished. **30.** Whenever the Returning Officer fails to furnish to the Deputy Returning Officer in any polling district the ballot box, within the time prescribed by this Act, it shall be the duty of such Deputy Returning Officer in such polling district to cause one to be made.

Poll Clerk. **31.** Each Deputy Returning Officer shall forthwith appoint by commission under his hand in the form, Schedule L to this Act, a Poll Clerk, who before acting as such shall take the oath in the form, Schedule M to this Act.

Poll Clerk to act as D. R. O. in certain cases. **32.** In case any Deputy Returning Officer should refuse or be unable to act, the Returning Officer may appoint another person to act in his place as Deputy Returning Officer ; and in case no such appointment be made, the Poll Clerk without taking another oath of office, shall act as Deputy Returning Officer.

And appoint a Poll Clerk under him. Whenever the Poll Clerk acts as Deputy Returning Officer, he shall, by a commission in the form, Schedule N to this Act, appoint a Poll Clerk to act in his stead, who shall take the oath required by the next preceding section of this Act.

Where the poll shall be held. **33.** The poll, when granted, shall be held in each polling district in a room or building of convenient access, with an outside door for the admittance of the voters, and having if possible another door through which they may leave after having voted. One or two compartments shall be made within the room, so arranged that each voter may be screened from observation, and may, without interference or interruption, mark his ballot paper.

34. Each Deputy Returning Officer shall open the poll assigned to him at the hour of nine of the clock in the morning and keep the same open until five of the clock in the afternoon; and shall, during that time receive, in the manner hereinafter prescribed, the votes of the electors duly qualified to vote at such polling place.

Hours for polling.

35. In addition to the Deputy Returning Officer and the Poll Clerk, the candidates and their agents (not exceeding two in number for each candidate) in each polling station, and, in the absence of agents, two electors to represent each candidate, on the request of such electors, and no others, shall be permitted to remain in the room where the votes are given, during the whole time the poll remains open.

Who may be present in the polling station.

36. Any person producing to the Returning Officer or Deputy Returning Officer, at any time, a written authority from a candidate to represent him at the election or at any proceeding of the election, shall be deemed an agent of such candidate within the meaning of this Act;

Who may act as agents for candidates.

One of the agents of each candidate, and, in the absence of such agent, one of the electors representing each candidate, if there be such elector, on being admitted to the polling station shall take the oath to keep secret the names of the candidates for whom any of the voters may have marked his ballot paper in his presence, as hereinafter required; such oath shall be in the form of Schedule N N to this Act.

Oath of secrecy.

37. At the hour fixed for opening the poll, the Deputy Returning Officer and the Poll Clerk shall, in the presence of the candidates, their agents, and such of the electors as may be present, open the ballot box and ascertain that there are no ballots or other papers in the same, after which the box shall be locked, and the Deputy Returning Officer shall keep the key thereof.

Opening the poll; shewing and locking ballot box.

38. Immediately after the ballot box shall have been closed as above provided, the Deputy Returning Officer shall call upon the electors to vote.

Calling voters.

39. The Chancellor and Vice-Chancellors of Ontario, and the judges of any court now existing or to be hereinafter created whose appointment shall rest with the Governor-General of the Dominion, shall be disqualified and incompetent to vote at the election of a member of the House of Commons of Canada.

Certain judges may not vote.

40. Subject to the exceptions hereinabove contained, all persons qualified to vote at the election of representatives in the House of Assembly or Legislative Assembly of the several Provinces composing the Dominion of Canada, and no others, shall be entitled to vote at the election of members of the House of Commons of Canada for the several Electoral Dis-

Who shall be entitled to vote.

tricts comprised within such Provinces respectively; and all lists of voters made and prepared, and which would, according to the laws in force in the said several Provinces, be used if the election were that of a representative or representatives to the House of Assembly or Legislative Assembly of the Province in which the election is held (where such lists are required to be made), shall be the lists of voters which shall be used at the elections of members of the House of Commons to be held under the provisions of this Act.

Where electors shall vote.

41. Each elector shall vote at the polling station of the polling district in which he is qualified to vote and no other; and it shall be the duty of the Returning Officer to secure the admittance of every elector into the polling station, and to see that he is not impeded or molested at or about the polling station.

Provisions as to election officers or agents entitled to vote.

42. The Returning Officer, on the request of any elector entitled to vote at one of the polling stations, who shall be appointed Deputy Returning Officer or Poll Clerk, or who shall be named the agent of any of the candidates for a polling station other than the one where he is entitled to vote, shall give to such elector a certificate that such Deputy Returning Officer, Poll Clerk or Agent is entitled to vote at such election at the polling station where such elector shall be stationed during the polling day, and on the production of such certificate such Deputy Returning Officer, Poll Clerk or Agent shall have the right to vote at the polling station where he shall be placed during the polling day, instead of at the polling station of the polling district where he would otherwise have been entitled to vote:—But no such certificate shall entitle any such elector to vote at such polling station unless he has been actually engaged as such Deputy Returning Officer, Poll Clerk or Agent during the day of polling.

Proviso.

Conditions of voting: declaration of voter.

43. Each elector, being introduced, one at a time for each compartment, into the room where the poll is held, shall declare his name, surname and addition, which shall be entered or recorded in the voters' list to be kept for that purpose by the Poll Clerk, and, if the same be found on the list of electors for the polling district of such polling station, he shall receive from the Deputy Returning Officer a ballot paper on which such Deputy Returning Officer shall have previously put his initials, and an envelope:

Oath of voter if required.

Provided that such elector, if required by the Deputy Returning Officer, the Poll Clerk, one of the candidates or one of their agents, or by any elector present, shall before receiving his ballot paper and envelope, take the oath or oaths of qualification required by the laws in force in the Province where the election is held, from a voter at the election of a member of the House of Assembly of that Province; the words "House of Commons of Canada" being in such case substituted for "House of Assembly," or such other change being made to make the

oath applicable to the election of a member of the House of Commons of Canada, and which the Deputy Returning Officer or Poll Clerk is hereby authorized to administer.

44. If there be any Electoral District in or for which the election law of the Province where such district is situate does not require lists of voters to be made to entitle them to vote, then in such case any elector claiming his ballot paper, shall declare his name, surname, addition and qualification, which shall be entered on a list kept for that purpose by the Poll Clerk; and before receiving his ballot paper such elector may be required by the Deputy Returning Officer, the Poll Clerk, one of the candidates or of their agents, or by any elector present to take the oath of qualification required by the law in force in such Province from a voter at the election of a member of the House of Assembly; the words "House of Commons of Canada" being in such case substituted for "House of Assembly," or such other change being made as may be required to make the oath applicable to the election of a member of the House of Commons of Canada—which oath the Deputy Returning Officer or Poll Clerk is hereby authorized to administer.

Form of oath
if no voters'
lists.

45. The elector, on receiving the ballot paper and envelope shall forthwith proceed into one of the compartments of the polling station and there mark his ballot paper, making a cross on the right-hand side, opposite the name of the candidate (or candidates, if more than one is to be elected) for whom he intends to vote, after which he shall fold it up and place it in the envelope, and close the same, and shall then hand the envelope containing such ballot paper to the Deputy Returning Officer, who shall, immediately and in the presence of the elector, place the same in the ballot box.

Mode of vot-
ing.

46. Every elector shall vote without undue delay, and shall quit the polling station so soon as his ballot paper has been put into the ballot box.

Despatch to
be used.

47. No elector shall be allowed to take his ballot paper out of the polling station; and whoever shall do so shall thereby incur a penalty not exceeding two hundred dollars.

Ballot paper
not to be car-
ried away.

48. The Deputy Returning Officer, on application of any voter who is unable to read, or incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall assist such voter by marking his ballot paper in the manner directed by such voter, in the presence of the sworn agents of the candidates, or of the sworn electors representing them, in the polling station, and of no other person, and by placing such ballot paper in an envelope and then in the ballot box:

Case of voter
who cannot
mark his bal-
lot paper.

List to be kept.

And the Returning Officer shall cause a list to be kept of the names of voters whose ballot papers have been so marked, in pursuance of this section, with the reason why each ballot paper was so marked. And whenever the Deputy Returning Officer shall not understand the language spoken by any elector claiming to vote, he shall swear an interpreter, who shall be the means of communication between him and such elector, with reference to all matters required to enable such elector to vote.

Interpreter allowed in certain cases.

Entry of names of electors voting.

49. The Poll Clerk shall enter on the voters list, to be kept by the Poll Clerk (in the form of Schedule O to this Act), opposite the name of each elector voting, the word "*Voted*," as soon as his ballot paper shall have been deposited in the ballot box. He shall also enter on the same list the word "*Sworn*" or "*Affirmed*" opposite the name of each elector to whom the oath or affirmation of qualification shall have been administered, and the words "*Refused to be sworn*" or "*Refused to affirm*" opposite the name of each elector who has refused to take the oath or to affirm.

When there are no lists of voters required by law.

50. When no lists of voters are required by the law in force in the Province or Electoral District for which the election takes place, then the Deputy Returning Officer shall cause the name, surname and addition of every voter to be entered on a list to be made and kept for that purpose; upon which list shall be entered the word "*Voted*" opposite the name of each voter who shall have voted; or "*Sworn*" or "*Affirmed*," or "*Refused to be sworn*" or "*to affirm*," as the case may be, as above provided.

Voter refusing to be sworn.

51. No voter having refused to take the oath or affirmation of qualification required as aforesaid by this Act, when requested so to do, shall receive a ballot paper or be admitted to vote.

Voting more than once forbidden.

52. No person shall vote more than once in the same Electoral District at the same election, but each elector may vote for as many candidates as are required to be elected to represent the Electoral District for which the election is held

Case of elector in whose name another has voted.

53. If a person, representing himself to be a particular elector named on the register or list of voters, applies for a ballot paper after another person has voted as such elector, the applicant, upon taking the oath in the form of Schedule P to this Act, and otherwise establishing his identity to the satisfaction of the Deputy Returning Officer shall be entitled to receive a ballot paper, on which the Deputy Returning Officer shall put his initials, together with a number corresponding to a number entered on the list of voters opposite the name of such voter, and he shall thereupon be entitled to vote as any other elector:

Entry on List.

The name of such voter shall be entered on the list of voters, and a note shall be made of his having voted on a second ballot

issued under the same name, and of the oath or affirmation of qualification having been required and made, as well as of any objections made on behalf of any and which of the candidates.

54. A voter who has inadvertently dealt with the ballot paper or envelope given him, in such manner that either or both cannot be conveniently used, may, on delivering the same to the Deputy Returning Officer, obtain another ballot paper or envelope in the place of that so delivered up. Elector spoiling his ballot paper.

55. Immediately after the close of the poll, the Deputy-Returning Officer shall, in the presence of the Poll Clerk and the candidates or their agents, and if the candidates and their agents are absent, then in the presence of at least three electors, open the ballot box and proceed to count the number of votes given for each candidate. In doing so he shall reject all ballot papers which are not similar to those supplied by the Deputy Returning Officer; all those contained in any envelope different from those supplied by the Deputy Returning Officer; all those by which votes have been given for more candidates than are to be elected; all those contained in the same envelope when such envelope contains more than one; and finally all those upon which there is any writing or mark by which the voter could be identified: Counting the votes by Deputy Returning Officer. Rejected ballots.

The other ballot papers being counted, and a list kept of the number of votes given to each candidate, and of the number of rejected ballot papers, all the ballot papers indicating the votes given for each candidate respectively shall be put into separate envelopes or parcels, and those rejected shall also be put into a different envelope or parcel, and all these parcels being endorsed so as to indicate their contents, shall be put back into the ballot box. Duty of Deputy Returning Officer after counting the votes.

56. The Deputy Returning Officer shall take a note of any objection made by any candidate, his agent or any elector present, to any ballot paper found in the ballot box, and shall decide any question arising out of the objection; and the decision of such Deputy Returning Officer shall be final, subject only to reversal on petition questioning the election or return. Objections to ballot papers

Each objection to a ballot paper shall be numbered, and a corresponding number placed on the back of the ballot paper, and initialed by the Deputy Returning Officer. To be numbered.

57. The Deputy Returning Officer shall make out a statement of the accepted ballot papers, of the number of votes given to each candidate, of the rejected ballot papers, of the spoiled and returned ballot papers, and of those unused and returned by him; and he shall make and keep by him a copy of such statement, and enclose in the ballot box the original statement, together with the voters list and a certified statement, at the Statement to be inclosed in ballot box for Returning Officer.

foot of each list, of the total number of electors who voted on each such list, and such other lists and documents as may have been used at such election. The ballot box shall then be locked and sealed, and shall be delivered to the Returning Officer, or to the Election Clerk, who shall receive or collect the same, and in case of both of them being unable to do so, then to one or more persons specially appointed for that purpose by the Returning Officer, and who shall, on delivering the ballot boxes to the Returning Officer, take the oath in Schedule P P to this Act:

Oaths to be attached. The Deputy Returning Officer and the Poll Clerk shall respectively take the oaths in forms, Schedules Q and R to this Act, which shall be annexed to the statement above mentioned.

Certificates to candidates. **58.** The several Deputy Returning Officers, on being requested so to do, shall deliver to each of the candidates, their agents, or in the absence of such candidates or agents, to the electors present representing the candidates, a certificate of the number of votes given for each candidate, and of the number of rejected ballot papers.

Summing up of votes by Returning Officer. **59.** The Returning Officer at the place, day and hour appointed by his Proclamation, and after having received all the ballot boxes, shall proceed to open them in the presence of the Election Clerk, the candidates or their representatives, if present, and of at least two electors, if the candidates or their representatives are not present, and to add together the number of votes given for each candidate, from the statements contained in the several ballot boxes returned by the Deputy Returning Officers:

Declaration thereon. The candidate who shall on the summing up of the votes, be found to have a majority of votes shall be then declared elected.

Casting vote of Returning Officer. **60.** When, on the final addition of votes by the Returning Officer, an equality of votes is found to exist between any of the candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the Returning Officer shall give such additional or casting vote, but shall in no other case have the right to vote.

Return of candidate elected. **61.** The Returning Officer, within four days after such verification, shall transmit his return to the Clerk of the Crown in Chancery, that the candidate having the largest number of votes has been duly elected; and shall forward to each of the respective candidates, a duplicate or copy thereof, and such return shall be in the form, Schedule S to this Act:

Report with return. The Returning Officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings, in which report he shall make any observation he may

think proper as to the state of the ballot boxes or ballot papers as received by him :

The Returning officer shall also transmit to the Clerk of the Crown in Chancery, with his return, the original statements of the several Deputy Returning Officers, referred to in section *fifty-eight* of this Act, together with the voters' lists used in the several polling districts, and any other lists and documents used or required at such election, or which may have been transmitted to him by the Deputy Returning Officers:

Voters' lists &c., with the return.

Such return and report shall be sent through the post office, after being registered.

Transmission .

"Fifty-eight" above should be "fifty-seven."

62. In case the ballot boxes should not have all been returned on the day fixed for adding up the number of votes given to the several candidates, the Returning Officer shall adjourn the proceedings to a subsequent day,—such subsequent day not being more than a week later than the day originally fixed, for the purpose of adding up the votes.

Adjournment if ballot boxes are missing.

63. In case the ballot boxes or any of them have been destroyed, lost, or for any other reason are not forthcoming within the delay so fixed, the Returning Officer shall ascertain the cause of the disappearance of such ballot boxes, and shall call on each of the Deputy Returning Officers whose ballot boxes are missing, or on any other person having the same, for the lists, statements and certificates, or copies of the lists, statements and certificates of the number of votes given to each candidate required by this Act, the whole verified on oath—which oath the Returning Officer is hereby authorized to administer ; and in case such lists or statements, or copies thereof, cannot be obtained, he shall ascertain by such evidence as he may be able to obtain the total number of votes given to each candidate at the several polling places, and he shall return the candidate having the majority of votes ; and shall mention specially in his report to be sent with the return the circumstances accompanying the disappearance of the ballot boxes, and the mode by which he ascertained the number of votes given to each candidate.

Provision in case of loss of ballot boxes.

64. The Clerk of the Crown in Chancery shall, on receiving the return of any member elected to the House of Commons, give notice in the ordinary issue of the *Canada Gazette* of the name of the candidate so elected.

Notice of return in *Canada Gazette*.

65. The Clerk of the Crown in Chancery shall retain in his possession the papers transmitted to him by any Returning Officer, with the return, for at least one year, if the election is not contested during that time, and, if the election be contested, he for one year after the termination of such contestation.

Duty of Clerk of the Crown in Chancery to retention of papers, &c.

In what cases only rejected ballot papers may be inspected.

66. No person shall be allowed to inspect any rejected ballot papers in the custody of the Clerk of the Crown in Chancery, except under the rule or order of one of Her Majesty's Superior Courts, or a Judge thereof; such rule or order to be granted by such Court or Judge on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and, any such order for the inspection or production of ballot papers may be made, subject to such conditions as to persons, time, place and mode of inspection or production, as the Court or Judge making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery.

And as to counted ballot papers.

67. No person shall, except by order of a tribunal having cognizance of petitions complaining of undue returns or undue elections, be allowed to inspect any counted ballot papers in the custody of the Clerk of the Crown in Chancery; and such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the tribunal making the order may think expedient.

68. No person shall—

Certain Acts prohibited.

Firstly : Forge or counterfeit or fraudulently alter, deface, or fraudulently destroy any ballot paper or the initials of the Deputy Returning Officer signed thereon; or

Secondly : Without authority supply any ballot paper to any person; or

Thirdly : Fraudulently put into any ballot box any paper other than the ballot paper, which he is authorized by law to put in; or

Fourthly : Fraudulently take out of the polling place any ballot paper; or

Fifthly : Without due authority destroy, take, open, or otherwise interfere with any ballot box or packet of ballot papers then in use for the purposes of the Election :

Attempts.

No person shall attempt to commit any offence specified in this section :

Contravention to be misdemeanour, and how punishable.

Any contravention of this section shall be a misdemeanour: and any person found guilty thereof shall be punishable, if he be a Returning Officer, Deputy Returning Officer or other officer engaged at the election, by a fine not exceeding one thousand dollars or by imprisonment for any term less than two years, with or without hard labour, in default of paying such fine; and if he be any other person, by a fine not exceeding

five hundred dollars, or by imprisonment for any term not exceeding six months, with or without hard labour, in default of paying such fine.

69. The property of the ballot boxes, ballot papers, envelopes and marking instruments procured for or used at any election, shall be in Her Majesty. Property of ballot boxes, &c.

70. Every officer and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act, shall forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum not exceeding five hundred dollars, in addition to the amount of all actual damages thereby occasioned to such person. Punishment of misfeasance, &c., by election officers.

71. After the close of every election the Returning Officer shall cause to be deposited in the custody of the Sheriff or of the Registrar of the county or registration division in which the nomination was held, the ballot boxes used at the election, and the Sheriff or Registrar shall, at the next ensuing election, deliver such ballot boxes to the Returning Officer named for such election. Custody of ballot boxes after election.

72. Every officer, clerk and agent in attendance at a polling place, shall maintain and aid in maintaining the secrecy of the voting at such polling place; and shall not communicate before the poll is closed to any person any information as to whether any person on the voters' list has or has not applied for a ballot paper or voted at that polling place. Provisions for maintenance of secrecy.

2. No officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain at the polling place information as to the candidate for whom any voter at such polling place is about to vote or has voted.

3. No officer, clerk, agent or other person shall communicate at any time to any person any information obtained at a polling place as to the candidate for whom any voter at such polling place is about to vote or has voted.

4. Every officer, clerk and agent in attendance at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting; and shall not attempt to ascertain at such counting, or communicate any information obtained at such counting, as to the candidate for whom any vote is given in any particular ballot paper.

5. No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Punishment
for contraven-
tion.

6. Any contravention of this section shall be punishable by a fine not exceeding two hundred dollars, or by imprisonment for any term not exceeding six months, with or without hard labour, in default of paying such fine.

Votes to be
struck off can-
didate for
bribery, &c.,
in certain
cases.

73. Where a candidate on the trial of an election petition claiming the seat for any person, is proved to have been guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect of any person who voted at such election, or where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall on the trial of such election petition be struck off from the number of votes appearing to have been given to such candidate, one vote for every person who voted at such election, and is proved to have been so bribed, treated or unduly influenced, or so retained or employed for reward as aforesaid.

This section is construed by 38 V., c. 10, sec. 5, and doubts arising under it removed—see that Statute post.

Personation,
what shall be.

74. A person shall for all purposes of the laws relating to Parliamentary elections be deemed to be guilty of the offence of personation, who, at an election of a member of the House of Commons, applies for a ballot paper in the name of some other person, whether such name be that of a person living or dead, or of a fictitious person, or who having voted once at any such election, applies at the same election for a ballot paper in his own name.

Punishment.

The offence of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation by any person, shall be punishable by a fine not exceeding two hundred dollars, and by imprisonment for a term not exceeding six months.

To be a cor-
rupt practice.

75. The offence of personation shall be deemed to be a corrupt practice within the meaning of the *Dominion Controverted Elections Act, 1874*, and of this Act.

See 37 V., c. 10, sec. 4, post, page 102, for definition of "corrupt practice."

Disqualifica-
tion of candi-
date guilty of
personation.

76. If, on the trial of any election petition questioning the election or return for any Electoral District, any candidate or other person is found by the report of the judge, by himself or his agents with his actual knowledge and consent, to have been guilty of personation, or by himself or his agents, to have aided, abetted, counselled or procured the commission at such election of the offence of personation by any person, his election shall be declared null and void; and such candidate or such other person shall be incapable of being elected or sitting in the House of Commons for any Electoral District during the continuance of

the Parliament for which the election is held, and during the then next Parliament.

77. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted. Secrecy of vote may act as his own agent.

GENERAL PROVISIONS.

78. A candidate may himself undertake the duties which any agent of his, if appointed, might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may in pursuance of this Act be authorized to attend. Candidate may act as his own agent.

79. Where in this Act any expressions are used, requiring or authorizing any act to be done, or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorized to attend, and as have, in fact, attended at the time and place where such act or thing is being done; and the non-attendance of any agents or agent at such time and place shall not, if the act or thing be otherwise duly done, invalidate in any wise the act or thing done. As to provisions requiring presence of agents, &c.

80. No election shall be declared invalid by reason of a non-compliance with the rules contained in this Act as to the taking of the poll or the counting of the votes, or by reason of any want of qualification in the persons signing a nomination paper received by the Returning Officer, under the provisions of this Act, or of any mistake in the use of the forms contained in the schedules to this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such non-compliance or mistake did not affect the result of the election. Mistakes of form only not fatal.

81. Every Returning Officer and every Deputy Returning Officer from the time they shall respectively have taken the oath of office until the day after the closing of the elections, shall be a conservator of the peace invested with all the powers appertaining to a Justice of the Peace. Returning Officer and D. R. O. to be conservators of peace.

82. Such Returning Officer or Deputy Returning Officer may require the assistance of Justices of the Peace, constables or other persons present, to aid him in maintaining peace and good order at such election; and may also, on a requisition made in writing by any candidate, or by his agent, or by any two electors, swear in such special constables as he deems necessary. May command assistance, &c. Special constables.

May arrest
disturbers.

83. Such Returning Officer or Deputy Returning Officer may arrest or cause to be arrested by verbal order, and place in the custody of any constables or other persons, any person disturbing the peace and good order at the election, and may cause such person to be imprisoned under an order signed by him until any period not later than the close of the poll.

May demand
offensive
weapons.

84. The Returning Officer or Deputy Returning Officer may, during the nomination day and polling day at any election, require any person within half a mile of the place of nomination or of the polling station, to deliver to him any fire-arm, sword, stave, bludgeon or other offensive weapon in the hands or personal possession of such person, and any person refusing to deliver such weapon shall be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding three months in default of payment of such fine.

Punishment of
battery
within two
miles of poll.

85. Every person convicted of a battery, committed during any day whereon any election, or any poll for any election, is begun, holden, or proceeded with, within the distance of two miles of the place where such election or such poll is begun, holden or proceeded with, shall be deemed guilty of an aggravated assault, and shall be punished accordingly.

Strangers not
to enter poll-
ing districts
armed.

86. Except the Returning Officer or his Deputy, or the Poll Clerk, or one of the constables, or special constables appointed by the Returning Officer, or his Deputy, for the orderly conduct of the election or poll and the preservation of the public peace thereat, no person, who hath not had a stated residence in the polling district for at least six months next before the day of such election, shall come during any part of the day, upon which the poll is to remain open, into such polling district armed with offensive weapons of any kind, as fire-arms, swords, staves, bludgeons or the like; nor shall any person whosoever, being in such polling district, arm himself, during any part of the day, with any such offensive weapons, and thus armed, approach within the distance of one mile of the place where the poll for such polling district is held, unless called upon to do so by lawful authority.

Entertain-
ment of elec-
tors forbidden.

87. No candidate shall, at any election, nor shall any other person, either provide or furnish drink or other refreshment at the expense of such candidate, to any elector during such election, or pay for, procure or engage to pay for, any such drink or other refreshment.

Flags, &c.,
not to be fur-
nished or
carried.

88. No candidate or any other person, shall furnish or supply any ensign, standard or set of colours, or any other flag, to or for any person or persons whomsoever, with intent that the same should be carried or used in such Electoral District on the day of election, or within eight days before such day, or during the continuance of such election or the polling, by such person

or any other, as a party flag to distinguish the bearer thereof and those who may follow the same as the supporters of such candidate, or of the political or other opinions entertained, or supposed to be entertained, by such candidate; nor shall any person, for any reason, carry or use any such ensign, standard, set of colours or other flag as a party flag, within such Electoral District on the day of any such election or polling, or within eight days before such day, or during the continuance of such election.

89. No candidate or any other person, shall furnish or supply any ribbon, label or like favour, to or for any person whomsoever, with intent that the same should be worn or used within such Electoral District on the day of election or polling, or within eight days before such day, or during the continuance of such election, by such person, or any other, as a party badge to distinguish the wearer as the supporter of such candidate, or of the political or other opinions entertained, or supposed to be entertained, by such candidate; nor shall any person use or wear any ribbon, label, or other favour, as such badge, within such Electoral District, on the day of any such election or polling, or within eight days before such day, or during the continuance of such election.

Ribbons or favours not to be furnished or worn.

90. Every person offending against any of the provisions of the four next preceding sections, shall be deemed guilty of a misdemeanour, punishable by fine not exceeding one hundred dollars, or imprisonment not exceeding three months, or by both, in the discretion of the court.

Punishment for contravention.

91. No spirituous or fermented liquors or strong drinks shall be sold or given at any hotel, tavern or shop or other place within the limits of any polling district, during the whole of the polling day at any election for the House of Commons, under a penalty of one hundred dollars for every offence; and the offender shall be subject to imprisonment, not exceeding six months, at the discretion of the judge or court, in default of payment of such fine.

Taverns to be closed; and no intoxicating liquors to be sold on polling day.

Punishment.

PREVENTION OF CORRUPT PRACTICES AT ELECTIONS.

92. The following persons shall be deemed guilty of bribery and shall be punishable accordingly:—

Certain acts to be deemed bribery.

(1). Every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure, or to endeavour to procure, any money or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote, or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;

(2). Every person who, directly or indirectly, by himself, or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure, or to endeavour to procure any office, place or employment, to or for any voter, or to or for any other person in order to induce such voter to vote, or refrain from voting, or corruptly does any such act as aforesaid, on account of any voter having voted or refrained from voting at any election ;

(3). Every person who directly or indirectly, by himself or by any other person on his behalf, makes any gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in the House of Commons, or the vote of any voter at any election ;

(4). Every person, who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, or promises or endeavours to procure the return of any person to serve in the House of Commons, or the vote of any voter at any election ;

(5). Every person who advances or pays, or causes to be paid, any money to, or to the use of any other person, with the intent that such money or any part thereof shall be expended in bribery, or corrupt practices at any election, or who knowingly pays or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery or corrupt practices at any election :

Punishment
for such
offences.

Proviso: as to
lawful ex-
penses.

And any person so offending shall be guilty of a misdemeanour, and shall also be liable to forfeit the sum of two hundred dollars, to any person who shall sue for the same, with full costs of suit : Provided always, that the actual personal expenses of any candidate, his expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act.

Certain acts
by voters to be
deemed
bribery.

93. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly ;—

(1). Every voter who, before or during any election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election ;

(2). Every person who, after any election, directly or indi-

rectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election :

And any person so offending shall be guilty of a misdemeanour, and shall also be liable to forfeit the sum of two hundred dollars to any person who shall sue for the same, together with full costs of suit.

Punishment for such offences.

94. Every candidate who corruptly, by himself or by or with any person, or by any other ways or means on his behalf, at any time either before or during any election, directly or indirectly gives or provides, or causes to be given or provided, or is accessory to the giving or providing, or pays wholly or in part any expenses incurred for any meat, drink, refreshment or provision to or for any person, in order to be elected or for being elected, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election, shall be deemed guilty of the offence of treating, and shall forfeit the sum of two hundred dollars to any person who shall sue for the same, with full costs of suit, in addition to any other penalty to which he may be liable therefor under any other provision of this Act: and on the trial of an election petition, there shall be struck off from the number of votes given for such candidate, one vote for every person who shall have voted and is proved on such trial to have corruptly accepted or taken any such meat, drink, refreshment or provision :

Offence of treating defined.

Votes to be struck off on trial of election.

And the giving or causing to be given to any voter on the nomination day or day of polling on account of such voter having voted or being about to vote, any meat, drink or refreshment, or any money or ticket to enable such voter to procure refreshment, shall be deemed an unlawful act, and the person so offending shall forfeit the sum of ten dollars for each offence to any person suing for the same, with full costs of suit.

Giving meat or drink to electors.

Penalty.

95. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of any force, violence or restraint, or inflicts, or threatens the infliction by himself, or by or through any other person, of any injury, damage, harm or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction, duress or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be

Threats of violence, &c., forbidden.

Punishment. guilty of a misdemeanour, and shall also forfeit the sum of two hundred dollars to any person suing for the same, with full costs of suit.

Recital of doubts.

Paying for conveyance of voter to poll illegal.

Penalty.

Disqualification of voters offending.

96. And whereas doubts may arise as to whether the hiring of teams and vehicles to convey voters to and from the polls, and the paying of railway fares and other expenses of voters, be or be not according to law, it is declared and enacted, that the hiring or promising to pay or paying for any horse, team, carriage, cab or other vehicle, by any candidate or by any person on his behalf, to convey any voter or voters to or from the poll, or to or from the neighbourhood thereof, at any election, or the payment by any candidate, or by any person on his behalf, of the travelling and other expenses of any voter in going to or returning from any election are and shall be unlawful acts; and the person so offending shall forfeit the sum of one hundred dollars to any person who shall sue for the same; and any voter hiring any horse, cab, cart, waggon, sleigh, carriage or other conveyance for any candidate, or for any agent of a candidate, for the purpose of conveying any voter or voters to or from the polling place or places, shall, *ipso facto*, be disqualified from voting at such election, and for every such offence shall forfeit the sum of one hundred dollars to any person-suing for the same.

Subornation of personation, &c.

Penalty.

97. Every candidate who corruptly, by himself or by or with any other person on his behalf, compels or induces or endeavours to induce any person to personate any voter, or to take any false oath in any matter wherein an oath is required under this Act, shall be guilty of a misdemeanour, and shall in addition to any other punishment to which he may be liable for such offence, be liable to forfeit the sum of two hundred dollars to any person suing for the same.

Certain offences to be corrupt practices.

98. The offence of bribery, treating or undue influence, or any of such offences, as defined by this or any other Act of the Parliament of Canada, personation or the inducing any person to commit personation, or any wilful offence against any one of the six next preceding sections of this Act shall be corrupt practices within the meaning of the provisions of this Act.

No excuse of privilege, &c., allowed for not answering questions in proceedings touching elections.

99. No person shall be excused from answering any question put to him in any action, suit, or other proceeding in any court, or before any judge, commissioner or other tribunal, touching or concerning any election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate himself, shall be used in any criminal proceeding against such person other than an indictment for perjury, if the judge, com-

missioner, or president of the tribunal shall give to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers to the satisfaction of the judge, commissioner, or tribunal.

100. Every executory contract, or promise, or undertaking, in any way referring to, arising out of, or depending upon, any election under this Act, even for the payment of lawful expenses, or the doing of some lawful act, shall be void in law; but this provision shall not enable any person to recover back any money paid for lawful expenses, connected with such election.

Contracts or promises relating to elections void.

PUNISHMENT FOR CORRUPT PRACTICES.

101. If it is found by the report of any court, judge or other tribunal for the trial of election petitions, that any corrupt practice has been committed by any candidate at an election, or by his agent whether with or without the actual knowledge and consent of such candidate, the election of such candidate, if he has been elected, shall be void.

Corrupt practice by candidate or his agent to void election.

Doubts under this section removed by 38 V., c. 10, sec. 5, post.

102. If it is proved before any court, judge or other tribunal for the trial of election petitions, that any corrupt practice has been committed by or with the actual knowledge and consent of any candidate at an election, or if he be convicted before any competent court of the misdemeanour of bribery or undue influence he shall be held guilty of corrupt practices, and his election, if he has been elected, shall be void, and he shall, during the seven years next after the date of his being so proved or found guilty, be incapable of being elected to, and of sitting in the House of Commons, and of voting at any election of a member of that House, or of holding an office in the nomination of the Crown or of the Governor, in Canada.

Effect of corrupt practice by a candidate.

103. If, on the trial of any election petition, any candidate is proved to have personally engaged at the election to which such petition relates as a canvasser or agent in relation to the election, any person, knowing that such person has, within eight years previous to such engagement, been found guilty of any corrupt practice, by any competent legal tribunal, or by the report of any judge or other tribunal for the trial of election petitions, the election of such candidate shall be void.

Employing agent who has been guilty of corrupt practices.

Doubts under this section removed by 38 V., c. 10, sec. 5, post.

104. Any person other than a candidate, found guilty of any corrupt practice in any proceeding in which, after notice of the charge, he has had an opportunity of being heard, shall, during the eight years next after the time at which he is so found guilty, be incapable of being elected to, and of sitting in the House of Commons, and of voting at any election of a mem-

Punishment of others than candidates for corrupt practices.

ber of the House of Commons, or of holding any office in the nomination of the Crown or of the Governor, in Canada.

Removal of
disqualifica-
tion procured
by perjury.

105 If at any time after any person has become disqualified under any of the four next preceding sections of this Act, the witnesses or any of them, on whose testimony such person shall have so become disqualified, are, upon the prosecution of such person, convicted of perjury in respect of such testimony, it shall be lawful for such person to move the court before which such conviction shall take place, to order, and such court shall, upon being satisfied that such disqualification was procured by reason of such perjury, order that such disqualification shall thenceforth cease and determine, and the same shall cease and determine accordingly.

PENALTIES AND PUNISHMENTS GENERALLY.

Liability of
Returning
Officer not
returning
candidate
elected.

106. If any Returning Officer wilfully delays, neglects or refuses duly to return any person who ought to be returned to serve in the House of Commons for any Electoral District, such person may, in case it has been determined on the hearing of an election petition respecting the election for such Electoral District, that such person was entitled to have been returned, sue the Returning Officer having so wilfully delayed, neglected or refused duly to make such return of his election, in any court of record in the Province in which such Electoral District is situate, and shall recover a sum of five hundred dollars, together with all damages he has sustained by reason thereof, and full costs of suit: Provided such action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of the trial of the petition relating to such election.

Previso.

Stealing or
tampering
with poll
books.

107. If any person unlawfully, either by violence or stealth takes from any Deputy Returning Officer or Poll Clerk, or from any other person having the lawful custody thereof, or from its lawful place of deposit for the time being, or unlawfully or maliciously destroys, injures or obliterates, or causes to be wilfully or maliciously destroyed, injured or obliterated, or makes or causes to be made any erasure, addition of names or interlineation of names, in, to or upon, or aids, counsels or assists in so taking, destroying, injuring or obliterating, or making any erasures addition of names, or interlineation of names, in, to or upon, any list of voters or writ of election, or any return to a writ of election, or any report, certificate or affidavit, or any document or paper, made, prepared or drawn out according to or for the purpose of meeting the requirements of this Act or any of them, every such offender shall be guilty of felony, and shall be liable to imprisonment in the penitentiary for any term not exceeding seven years, nor less than two years, or to be imprisoned in any other gaol or place of confinement for a period not less than two years, with or without hard labour; and it shall not be necessary in any indictment for such offence, to allege that the are

Felony.
Punishment.

title in respect of which the offence is committed, is of any value or the property of any person.

108. Any Returning Officer, Deputy Returning Officer, Election Clerk or Poll Clerk, who refuses or neglects to perform any of the obligations or formalities required of him by this Act, shall for each such refusal or neglect forfeit the sum of two hundred dollars to any person suing for the same.

Neglect of duty by election officers.

Penalty.

109. All penalties and forfeitures (other than fines in cases of misdemeanour) imposed by this Act, shall be recoverable, with full costs of suit, by any person who will sue for the same by action of debt or information, in any of Her Majesty's courts in the Province in which the cause of action arose, having competent jurisdiction; and in default of payment of the amount which the offender is condemned to pay, within the period fixed by the court, the offender shall be imprisoned in the common gaol of the place, for any term less than two years, unless such fine and costs be sooner paid.

Recovery of penalties and forfeitures.

110. It shall be sufficient for the plaintiff, in any action or suit given by this Act, to state in the declaration that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence for which the action or suit is brought, and that the defendant hath acted contrary to this Act, without mentioning the writ of election or the return thereof.

Allegation and proof in suits for penalties.

111. In any such civil action, suit or proceeding as last aforesaid the parties to the same and the husbands or wives of such parties respectively, shall be competent and compellable to give evidence, to the same extent and subject to the same exceptions as in other civil suits in the same Province; but such evidence shall not thereafter be used in any indictment or criminal proceeding under this Act against the party or person giving it.

Evidence of husbands and wives.

Proviso.

112. It shall be lawful for any criminal court before which any prosecution is instituted for any offence against the provisions of this Act, to order payment by the defendant to the prosecutor of such costs and expenses as appear to the court to have been reasonably incurred in and about the conduct of such prosecution; but the court shall not make such order, unless the prosecutor before or upon the finding of the indictment or the granting of the information, enters into a recognizance with two sufficient sureties, in the sum of five hundred dollars, and to the satisfaction of the court, to conduct the prosecution with effect and to pay the defendant his costs in case he be acquitted.

Criminal Court may allow costs to prosecution in certain cases.

113. In case of an indictment or information by a private prosecutor for any offence against the provisions of this Act, if judgment be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the defendant by reason of such indictment or information,—such costs to be

Or to defendant acquitted.

taxed by the proper officer of the court in which the judgment is given.

Allegation and evidence of corrupt practice.

114. In any indictment or prosecution for bribery or undue influence, or any other corrupt practice, and in any action or proceeding for any penalty for bribery, or undue influence, or any other corrupt practice, it shall be sufficient to allege that the defendant was, at the election, at or in connection with which the offence is intended to be alleged to have been committed, guilty of bribery or undue influence or any other corrupt practice, describing it by the name given to it by this Act or otherwise (as the case may require); and in any criminal or civil proceeding in relation to any such offence, the certificate of the Returning Officer in this behalf, shall be sufficient evidence of the due holding of the election and of any person named in such certificate having been a candidate thereat.

Production of writ of election, &c., not required.

115. It shall not be necessary on the trial of any suit or prosecution under this Act, to produce the writ of election or the return thereof, or the authority of the Returning Officer founded upon any such writ of election, but general evidence of such facts shall be sufficient evidence.

Clerk of the Crown in Chancery may deliver certified copies of certain papers.

116. The Clerk of the Crown in Chancery may deliver certified copies of any writ, lists of voters, returns, reports and other documents in his possession relating to any election, except ballot papers; and such copies so certified shall be received and be held as *prima facie* evidence before any election judge or court, and before any court of justice in the Dominion of Canada.

Power of Court or Judge trying an election petition to impose certain penalties.

117. Whenever it shall appear to the court or judge trying an election petition, that any officer, elector, or other person, has contravened any of the provisions of this Act—for which contravention such officer, elector, or other person, might be liable to a fine or penalty (other than fines and penalties imposed for any offence amounting to a misdemeanour or felony), such court or judge may order that such officer, elector, or other person, be summoned to appear before such court or judge, at the place, day and hour fixed in such summons for hearing the charge:

Proceedings in such case.

If, on the day so fixed by the summons, the party summoned do not appear, he shall be condemned, on the evidence already adduced on the trial of the election petition, to pay such fine or penalty as he may be liable to for such contravention, and in default of paying such fine, to the imprisonment imposed in such case under the provisions of this Act:

And if on the day so fixed the party so summoned do appear, the court or judge, after hearing such party and such evidence as may be adduced, shall give such judgment as to law and justice may appertain.

All fines recovered under this section shall belong to Her Majesty :

No fine shall be imposed under this section if it shall appear Proviso. to the judge or court that the party has already been sued for the same offence, nor shall any such fine be imposed for any offence proved only by the evidence or admission of the party committing it.

118. No indictment for bribery or undue influence, personation or other corrupt practice shall be triable before any Court of Quarter or General Sessions of the Peace. Bribery, &c., not triable at Q.S.

119. Every prosecution for any misdemeanor under this Act, and every action, suit or proceeding for any pecuniary penalty given by this Act to the person suing for the same, shall be commenced within the space of one year next after the act committed, and not afterwards (unless the same be prevented by the withdrawal or absconding of the defendant out of the jurisdiction of the court), and being commenced shall be proceeded with and carried on without wilful delay. Limitation of suits, &c.

120. Every person taking any oath or affirmation under this Act, who wilfully swears or affirms falsely, shall be deemed guilty of perjury. Perjury.

ELECTION EXPENSES.

121. No payment (except in respect of the personal expenses of a candidate) and no advance, loan or deposit, shall be made by or on behalf of any candidate at any election, before or during or after such election, on account of such election, otherwise than through an agent or agents, whose name or names, address or addresses, have been declared in writing to the Returning Officer, on or before the nomination day, or through an agent or agents to be appointed in his or their place, as herein provided ; and any person making any such payment, advance, loan or deposit otherwise than through such agent or agents shall be guilty of a misdemeanor : No payment to be made except through authorized agent.

It shall be the duty of the Returning Officer, to publish on or before the nomination day the name and address or the names and addresses of the agent or agents appointed in pursuance of this section : Names of agents to be published.

In the event of the death or legal incapacity of any agent appointed in pursuance of this section, the candidate shall forthwith appoint another agent in his place, giving notice to the Returning Officer of the name and address of the person so appointed, which shall be forthwith published as hereinbefore provided, by the Returning Officer. In case agent cannot act.

Bills and claims to be sent in within one month, or right to be barred.

Proviso.

Proviso.

122. All persons who have any bills, charges or claims upon any candidate for or in respect of any election, shall send in such bills, charges or claims within one month after the day of the declaration of the election, to such agent or agents as aforesaid; otherwise such persons shall be barred of their right to recover such claims, and every or any part thereof: Provided always, that in the event of the death, within the said month, of any person claiming the amount of any such bill, charge or claim, the legal representative of such person shall send in such bill, charge or claim within one month of his obtaining probate or letters of administration, or of his becoming otherwise able to act as such legal representative, otherwise the right to recover such claim shall be barred as aforesaid; and provided also, that such bills, charges and claims shall and may be sent in and delivered to the candidate, if and so long as during the said month, there shall, owing to death or legal incapacity, be no such agent; and provided also, that the agent shall not pay any such bill, charge or claim without the authority of the candidate, as well as the approval of the agent.

Publication of detailed statement of expenses.

123. A detailed statement of all election expenses incurred by or on behalf of any candidate, including such expected payments as aforesaid, shall within two months after the election (or in cases where by reason of the death of the creditor no bill has been sent in within such period of two months, then within one month after such bill has been sent in) be made out and signed by the agent, or if there be more than one, by every agent who has paid the same (including the candidate in cases of payments made by him) and delivered with the bills and vouchers relative thereto to the Returning Officer; and the Returning Officer for the time being shall, at the expense of the candidate, within fourteen days, insert or cause to be inserted, an abstract of such statement, with the signature of the agent thereto in some newspaper published or circulating in the electoral district where the election was held: and any agent or candidate who makes default in delivering to the Returning Officer the statements required by this section shall incur a penalty not exceeding twenty dollars for every day during which he so makes default; and any agent or candidate who wilfully furnishes to the Returning Officer any untrue statement shall be guilty of a misdemeanor: and the said Returning Officer shall preserve all such bills and vouchers, and during the six months next after they shall have been delivered to him, shall permit any voter to inspect the same on payment of a fee of twenty cents.

Penalty for default.

Bills, &c., to be preserved.

Who may not act as agents for candidates.

124. No Returning Officer or Deputy Returning Officer, for any Electoral District, nor any partner or clerk of either of them, shall act as agent for any candidate in the management or conduct of his election for such Electoral District; and if any Returning Officer, Deputy Returning Officer, or the partner or clerk of either of them so acts, he shall be guilty of misdemeanor.

125. The words “personal expenses,” as used in this Act with respect to the expenditure of any candidate in relation to the election at which he is a candidate, shall include the reasonable travelling expenses of such candidate, and the reasonable expenses of his living at hotels or elsewhere, for the purpose of and in relation to such election. Personal expenses, what to be.

FEES AND EXPENSES.

126. The fees hereinafter mentioned, and no other, subject to the provisions hereinafter made, shall be allowed to the several officers hereinafter mentioned, respectively, for their services and disbursements at any election, that is to say: Fees for services and disbursements.

To Returning Officers, when no poll is taken.

1. For the personal services of the Returning Officer, forty dollars.
2. For the personal services of the Election Clerk, four dollars.
3. For one Constable, if considered necessary, one dollar.
4. For printing proclamations, actual cost.
5. For posting proclamations, not less than four in each polling district, for each mile necessarily travelled from place to place, as allowed to sheriffs on summoning jurors, ten cents.
6. For each mile necessarily travelled by Returning Officer and Election Clerk in going to and returning from the place of nomination, ten cents.
7. For use when a public building is not obtainable, of private building for nomination—actual cost, not exceeding four dollars.

To Returning Officers when polls are taken.

8. For the personal service of the Returning Officer, sixty dollars.
9. For the personal services of the Election Clerk, eight dollars.
10. For services of one constable, if considered necessary at the nomination, one dollar.

11. For printing proclamations, lists of candidates, and directions to voters, actual cost.

12. For posting proclamations (as in item 5) per mile, ten cents.

13. For each mile necessarily travelled posting up any advertisement to be so posted up, in appointing and swearing the Deputy Returning Officers, and furnishing them with ballot boxes, ballot papers, envelopes, printed directions for the guidance of voters and voters' lists, ten cents.

14. For each mile necessarily travelled for collecting the ballot boxes and voters' lists, used at each poll, and for swearing the Deputy Returning Officers after the close of the poll, ten cents.

15. For each mile necessarily travelled by Returning Officer and Election Clerk in going to and returning from the place of nomination, ten cents.

16. For each mile travelled in establishing polling subdivisions, when such divisions have not been made by the local authorities or preceding Returning Officer, ten cents.

17. For copies of voters' lists duly certified by the custodian thereof, ten cents per folio of 100 words.

18. For each certificate of such custodian, fifty cents.

19. For making up and transmitting returns to the Clerk of the Crown in Chancery, postage and telegrams, actual disbursements.

20. For services necessary under section *sixty-four*,—a reasonable sum to be determined by Order in Council.

Sixty-four is apparently a mistake for sixty-three.

21. For use, when a public building is not obtainable, of private building for nomination—cost, not exceeding four dollars.

22. For ballot boxes when furnished by him, and for ballot papers and envelopes, and for any other disbursements absolutely required and not hereinbefore provided for, actual disbursements.

To Deputy Returning Officers.

23. For swearing the Poll Clerk before and after the polls, one dollar.

24. For taking the polls, four dollars.

25. For services of Poll Clerk, two dollars.

26. For services of one Constable, if considered necessary, one dollar.

27. For mileage of Deputy and Polling Clerk in going to and returning from the polling station, neither exceeding in any case 20 miles, each mile, ten cents.

28. Actual expenses incurred for the use of polling stations not exceeding ten dollars in cities, nor four dollars in other constituencies.

29. For making compartment or screen in polling-room, not exceeding three dollars.

And such fees, allowances and disbursements shall be paid to the Returning Officer, by warrant of the Governor directed to the Receiver-General, out of the Consolidated Revenue Fund of Canada, and shall be distributed by such Returning Officer to the several officers and persons entitled to the same under the provisions of this Act, which distribution he shall report to the Governor through the Secretary of State: The Returning Officers shall certify the correctness of the accounts of their respective Deputy Returning Officers.

Fees, &c., to be paid out of Consolidated Revenue Fund

Whenever an election is held for the Electoral District of Gaspé or Chicoutimi and Saguenay in the Province of Quebec, or for the Electoral District of Algoma or Essex, in the Province of Ontario, or for any Electoral District in either of the Provinces of Manitoba or British Columbia, and it shall appear to the Governor in Council that the fees and allowances above provided are not sufficient remuneration for the services required to be performed, the Governor in Council may authorize the payment of such further and additional sum or sums of money for such services as may be considered just and reasonable compensation therefor :

Fees, &c., may be increased in certain electoral districts.

Provided that, inasmuch as the mode of conducting elections established by this Act is new in Canada, if it should appear to the Governor in Council that the provisions above made in the present section are inadequate or insufficient for the purpose for which they are intended (that is a fair and just but economical remuneration for the services performed), the Governor in Council may make a tariff of fees, costs and expenses to be paid and allowed to Returning Officers, and other persons employed at or with respect to elections under this Act, and may, from time to time, revise and amend such tariff, which shall then be substituted for that above mentioned, as respects any election held after the making or the revising or amending thereof; but a copy of any such tariff and of any amendment thereof shall be laid before the House of Commons at the then next Session of Parliament.

Governor in Council may make new tariff, and revise and amend it.

MISCELLANEOUS PROVISIONS.

Administra-
tion of oaths.

127. Any person before whom it is hereby required or intimated by any form in the schedule to this Act, that any oath be taken, or any affirmation made in the manner herein provided, shall have power to administer the same, and shall do so gratuitously; and the Returning Officer at any election shall have power to administer any oath or affirmation required with respect to such election by this Act; and the Deputy Returning Officer may administer such oath or affirmation, except only such as may be required to be administered to the Returning Officer.

Mode of giving
notices.

128. Where the Returning Officer or his Deputy is by this Act required or authorized to give any public notice, and no special mode of giving the same is mentioned, he may give the same by advertisement, placards, handbills or such other means as he may think best calculated to give the information to the electors.

Reckoning
time.

129. If the time limited by this Act for any proceeding, or the doing of any thing under its provisions, expires or falls upon a Sunday, or any day which is a holiday under the Interpretation Act, the time so limited shall be extended to, and such thing may be done on the day next following which is not a Sunday or holiday.

Interpretation.

130. In this Act the word "Election" means an election of a member to serve in the House of Commons; the words "Electoral District" mean any place in Canada entitled to return a member to the House of Commons; the word "oath" includes "affirmation" in cases where a solemn affirmation is by law allowed instead of an oath; and the Interpretation Act applies to this Act.

Copies of this
Act, &c., to be
sent to Return-
ing Officers.

131. One copy of this Act, and of such extracts from the election or other laws of the several Provinces of the Dominion, and of such instructions approved by the Governor in Council, as may be required to carry out the elections according to the provisions of this Act (with a copious alphabetical index prefixed), for the Returning Officer, and one for each of his Deputies, shall be transmitted, with the writ of election, to each Returning Officer.

Making of
ballot boxes,
compartments,
&c.

132. The Clerk of the Crown in Chancery may cause to be made for the first election, for each Electoral District, such a number of ballot boxes as may be required; or may give to the Returning Officers such instructions as may be deemed necessary to secure ballot boxes of a uniform size and shape, and also as to the mode of making the compartments in the polling stations,—such instructions being first approved of by the Governor in Council.

133. The Act passed by the Parliament of Canada in the thirty-sixth year of Her Majesty's reign, intituled: "*An Act to make temporary provision for the election of Members to serve in the House of Commons,*" is hereby repealed, except only as to elections held, rights acquired, or liabilities incurred before the coming into force of this Act; and no enactment or provision contained in any Act of the Legislature of the late Province of Canada, or any of the Provinces now composing the Dominion of Canada, respecting elections of members of the elective house of the Legislature of any such Province, shall apply to any election of a member or members of the House of Commons, held after the passing of this Act, except only such enactments and provisions as may be in force in such Province at the time of such last mentioned election, relating to the qualification of electors and the formation of voters' lists, and which will apply for like purposes to elections of members of the House of Commons, as provided in this Act.

36 V., c 27 repealed.
As to Provincial laws touching elections.

134. This Act shall come into force on the first day of July next after the passing thereof.

Commencement of Act.

135. This Act may be cited as "The Dominion Elections Act, 1874."

Short title.

SCHEDULE OF FORMS.

A.

Writ of Election.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith;—To the Sheriff (Registrar or other Returning Officer, as the case may be) of the County (or as the case may be) of _____, GREETING :

Whereas by the advice of Our Privy Council for Canada, We have ordered a Parliament to be holden at Ottawa, on the _____ day of _____ next, (*omit this Preamble, except in the case of a General Election*). We command you that, notice of the time and place of election being duly given, you do cause Election to be made according to law of a Member (*or as the case may be*) to serve in the House of Commons of Canada, for the Electoral District of _____, (*except in case of a General Election, insert here in the place of _____, deceased, or otherwise, stating the cause of vacancy*) and (*except in the Electoral Districts mentioned in section two*) that you do cause the nomination of candidates at such Election to be held on the _____ day of _____ next,) and do cause the name (*or names*) of such member (*or members*) when so elected, whether he (*or they*) be present or absent, to be certified

to our Clerk of the Crown in Chancery, on or before the
day of next.

Witness, Our Right Trusty and Well-beloved, &c., Governor
General (*or* Administrator of the Government) of our Dominion
of Canada, at our City of Ottawa, the day of
in the year of Our Reign and in the year of
Our Lord 18

Indorsement.

Received the within Writ on the day of 18

(*Signed,*) A. B.,
Sheriff of (*or as the case may be,*

Returning Officer.

B. .

Oath of the Returning Officer.

I, the undersigned, A. B., Returning Officer for the Electoral
District of , solemnly swear (*or if he be one of the
persons permitted by law to affirm in civil cases, solemnly affirm*)
that I am legally qualified according to law to act as Returning
Officer for the said Electoral District of , and that
I will act faithfully in that capacity, without partiality, fear,
favour or affection; so help me God.

(*Signature,*) A. B.
Returning Officer.

Certificate of Returning Officer having taken Oath of Oee.

I, the undersigned, hereby certify that on the day of the
month of , 18 , A. B., the Returning Officer for
the Electoral District of , took and subscribed before
me, the oath (*or affirmation*) of office, in such case required of a
Returning Officer, by Section 7 of the "Dominion Elections
Act, 1874."

In testimony whereof, I have delivered to him this Certificate.

(*Signature,*) C. D.,
Justice of the Peace.

C.

Commission of an Election Clerk.

To E. F. (*set forth his legal addition and residence.*)

Know you, that in my capacity of Returning Officer for the
Electoral District of , I have appointed, and

do hereby appoint you, to be my Election Clerk, to act in that capacity according to law, at the approaching Election for the said Electoral District of _____, which Election will be opened by me, on the _____ day of the month of _____, 18____.

Given under my hand this _____ day of _____, in the year 18____

(Signature,)

A. B.,
Returning Officer.

D.

Oath of the Election Clerk.

I, the undersigned, E. F., appointed Election Clerk for the Electoral District of _____, solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm), that I will act faithfully in my said capacity as Election Clerk, and also in that of Returning Officer if required to act as such, according to law, without partiality, fear, favour or affection: So help me God.

(Signature,)

E. F.,
Election Clerk.

Certificate of the Election Clerk having taken the Oath of Office.

I, the undersigned, hereby certify that on the day of _____, 18____, E. F., Election Clerk for the Electoral District of _____, took, and subscribed before me, the oath (or affirmation) of office required in such case, of an Election Clerk, by Section 10 of "The Dominion Elections Act, 1874."

In testimony whereof, I have delivered to him this Certificate under my hand.

(Signature,)

C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.

E.

Proclamation of the Returning Officer declaring the time and place fixed for the nomination of Candidates, and also the day for opening the Poll, and the polling stations and polling districts.

PROCLAMATION.

Electoral District of _____, to wit:

Public Notice is hereby given to the Electors of the Electoral

District aforesaid, that, in obedience to Her Majesty's Writ to me directed, and bearing date the day of 18 , I require the presence of the said Electors at (*describe the place where the Nomination is to take place*), in the County (or Township, or in the City or Town) of , on the day of the month of , from noon until two of the clock in the afternoon, for the purpose of nominating a person (*or persons, as the case may be*), to represent them in the House of Commons of Canada; and that in case a Poll be demanded and allowed in the manner by law prescribed, such Poll will be opened on the day of the month of , in the year , from the hour of nine in the morning till five of the clock in the afternoon in each of the Polling Districts, that is to say :

For the Polling District No. 1, consisting of (*or bounded as follows, or otherwise describing it clearly*) at describing the Polling Station :—
(*and so continuing for all the other Polling Districts and Stations in the Electoral District*).

And further that on the day of at I shall open the ballot boxes, sum up the votes given for the several candidates and return as elected the one (*or as the case may be*) having the majority of votes.

Of which all persons are hereby required to take notice and to govern themselves accordingly.

Given under my hand at , this day of , in the year 18 .

(*Signature,*) A. B.,
Returning Officer.

F.

Nomination Paper &c.

We, the undersigned Electors of the Electoral District of hereby nominate (*names, residence and additions or descriptions of person or persons nominated*) as a candidate at the election now about to be held of a member to represent the said Electoral District in the House of Commons of Canada.

Witness our hands at in the said Electoral District,
this day of 18 .

Signed, by the said electors, in presence }
 of , of (additions). }
Signatures with residence and additions
 I the said , nominated in the foregoing Nomi-
 nation Paper, hereby consent to such nomination.

Witness my hand at , this day of
 18 .

Signed by the said nominee, in presence }
 of , of (additions.) }
Signature.

G.

Oath of Attestation of the nomination Paper.

I, A. B., of , (additions) solemnly swear (or if he
 be one of the persons permitted by law to affirm in civil cases,
 solemnly affirm) that I know, (mentioning the names of the
 signers known to him), and that they are duly qualified as
 Electors of the Electoral District of , to vote at an
 election of a member to serve in the House of Commons of
 Canada, and that they respectively signed the foregoing (or
 within) nomination paper in my presence; and further (if the
 case be so), that I know the said , thereby
 nominated as a candidate, and that he signed his consent to the
 nomination in my presence.

Sworn (or affirmed) before me, at }
 , this day of } (Signature,) A. B.
 , 18 .
 C. D.,

Justice of the Peace.

*The forms in this Schedule may be varied according to cir-
 cumstances, the intention of the Act being complied with; and
 the assent of the candidate may be sworn to by a separate elector,
 if the facts require it to be so.*

H.

*Return when there are no more Candidates than Members to be
 elected.*

I hereby certify that the member (or members) elected for
 the Electoral District of , in pursuance of the within
 written writ, is (or are) A. B. of in , (and C. D.

of *as in the nomination paper*), no other candidate having been nominated (or the other or all other candidates having withdrawn) *as the case may be*.

(Signed,) R. O., Returning Officer.

H H.

Notice of Poll being granted, and of Candidates Nominated.

NOTICE.

Electoral District of _____, to wit:

Public notice is hereby given to the Electors of the Electoral District aforesaid, that a Poll has been demanded at the Election now pending for the same, and that I have granted such Poll; *and further*, that the persons duly nominated as candidates at the said Election, and for whom only votes will be received, are,—

1. JOHN DOE, of the Township of Nepean, County of Carleton, Yeoman.

2. RICHARD ROE, of the Town of Prescott, County of Grenville, Merchant.

3. GEOFFREY STILES, of 10 Sparks Street, Ottawa, Physician.

4. JOHN STILES, of 3 Elgin Street, Ottawa, Barrister-at-Law.

As in the Nomination Papers.

Of which ALL persons are hereby required to take notice, and to govern themselves accordingly.

Given under my hand at _____ this _____ day
o. in the year 18 .

Signature, A. B.,
Returning Officer.

I.

Ballot Paper and Directions for voting.

Election for the Electoral District of 18	I.	DOE. (John Doe, Township of Nepean, County of Carleton, Yeoman.	
	II.	ROE. (Richard Roe, of Town of Prescott, County of Grenville, Merchant.	×
	III.	STILES. (Geoffrey Stiles, of 10 Sparks Street, Ottawa, Physician.	
	IIII.	STILES. John Stiles, of 3 Elgin Street, Ottawa, Barrister-at-Law.	

The names of the candidates will be as in the nomination paper. The elector is supposed to have marked his ballot paper in favour of Richard Roe.

DIRECTIONS FOR THE GUIDANCE OF ELECTORS IN VOTING.

The voter is to vote only for one candidate, unless two members are to be returned for the Electoral District, in which case he may vote for one or for two candidates as he thinks fit.

The voter will go into one of the compartments, and with a pencil there provided, place a cross opposite the name or names of the candidate or candidates for whom he votes, thus ×.

The voter will then fold the ballot so as to show a portion of the back only, he will then place it in the envelope, which he will close in the usual way, and deliver to the Deputy Returning Officer, who will place it in the ballot box. The voter will then forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper or envelope, he can return it to the proper officer, who on being satisfied of the fact, will give him another.

If the voter votes for more candidates than he is entitled to vote for, or places any mark on the ballot paper or envelope by

which he can afterwards be identified, his vote will be void, and will not be counted.

If the voter takes a ballot paper or envelope out of the polling station, or fraudulently puts any other paper into the ballot box, than the ballot paper given him by the Deputy Returning Officer, he will be subject to be punished by fine or by imprisonment for a term not exceeding six months, with or without hard labor.

J.

Commission of a Deputy Returning Officer.

To G. H. (*insert his legal addition and residence.*)

Know you, that in my capacity of Returning Officer, for the Electoral District of _____, I have appointed, and do hereby appoint you to be Deputy Returning Officer for the polling district number _____, of the said Electoral District of _____, there to take the votes of the Electors by ballot according to law, at the polling station, to be by you opened and kept for that purpose, and you are hereby authorized and required to open and hold the poll of such election for the said polling district on the _____ day of _____, at nine o'clock in the forenoon at (*here describe particularly the place in which the poll is to be held*), and there to keep the said poll open during the hours prescribed by law, and to take at the said polling place by ballot, in the manner by law provided, the votes of the electors voting at the said Polling place, and after counting the votes given and performing the other duties required of you by law, to return to me forthwith the ballot box sealed with your seal, and enclosing the ballots, envelopes, voters' list, and other documents required by law, together with this commission.

Given under my hand, at _____, this _____ day of _____, in the year 18 _____.

(*Signature,*)

A. B.,
Returning Officer.

K.

Oath of Deputy Returning Officer.

I, the undersigned G. H., appointed Deputy Returning Officer for the polling district, No. _____, of the Electoral District of _____, solemnly swear (*or, being*

one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will act faithfully in my said capacity of Deputy Returning Officer, without partiality, fear, favour, or affection. So help me God.

(Signature,) G. H.,
Deputy Returning Officer.

Certificate of a Deputy Returning Officer having taken the Oath of Office.

I, the undersigned, hereby certify that on the day of the month of , G. H., Deputy Returning Officer for the polling district No. of the Electoral District of , took and subscribed the oath (or affirmation) of office, required in such case of a Deputy Returning Officer, by section 28 of "The Dominion Elections Act, 1874."

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature,) C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.

L.

Commission of a Poll Clerk.

To I. J. (*insert his legal addition and residence.*)

Know you, that in my capacity of Deputy Returning Officer for the polling district, No. , of the Electoral District of , I have appointed, and do hereby appoint you to be Poll Clerk for the said polling district.

Given under my hand at , this day of , in the year 18 .

(Signature,) G. H.,
Deputy Returning Officer.

M.

Oath of Poll Clerk.

I, the undersigned, I. J., appointed Poll Clerk for the polling district, No. , of the Electoral District of ,

do solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm*) that I will act faithfully in my capacity of Poll Clerk, and also in that of Deputy Returning Officer if required to act as such, according to law, without partiality, fear, favour, or affection. So help me God.

(Signature,) I. J.,
Poll Clerk.

Certificate of the Poll Clerk having taken the Oath.

I, the undersigned, hereby certify that on the _____ day of the month of _____, I. J., Poll Clerk, for the polling district, No. _____, of the Electoral District of _____ took and subscribed before me the oath (*or affirmation*) of office required of a Poll Clerk in such cases by section 31 of "The Dominion Elections Act, 1874."

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature,) C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.
or G. H.,
Deputy Returning Officer.

N.

Commission of a Poll Clerk by a Poll Clerk acting as Deputy Returning Officer.

To _____ of (*insert his residence and legal addition*)

Know you, that in my capacity of Acting Deputy Returning Officer for the polling district No. _____ of the electoral district of _____, in consequence of the decease (*or incapacity to act as the case may be*) of the Deputy Returning Officer for the said polling district whose Poll Clerk I was, I have appointed, and do hereby appoint you to be Poll Clerk for the said polling district, No. _____, of the said Electoral District.

Given under my hand at _____ this _____ day of _____ in the year 18 _____.

(Signature,) P. C.
Poll Clerk, Acting as Deputy Returning Officer.

The oath and certificate of its having been taken will be the same as in the case of a Poll Clerk appointed by the Deputy Returning Officer.

N.

Oath of Agent of a Candidate, or of Elector representing a Candidate, under Section 36.

I, the undersigned, G. H., Agent for (or Elector representing) J. K., one of the candidates at the election now pending for the electoral district of _____, solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will keep secret the names of the candidates for whom any of the voters at the polling station in the polling district, No. _____, may have marked his ballot paper in my presence at this election. So help me God.

(Signature,) G. H.

Sworn (or affirmed) before me, at _____ this _____ day of _____ 18____

A. B.,
Returning Officer.
or Justice of the Peace.

O.

Form of Voters' List.

Number of the Voters.	NAMES OF THE VOTERS.	Their legal addition.	Their place of residence.	Owners.	Tenants or Occupants.	Residence or other qualification.	Objections.	Sworn or affirmed.	Voters refusing to be sworn or affirmed.	Voters voting after others voted in their names.

NOTE.—The qualification need not be inserted except where there are no Provincial lists of voters.

P.

Oath of identity by voter receiving a ballot paper and envelope, after another has voted in his name.

I solemnly swear, (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I am A. B., of _____ (as on the voters' list) whose name is entered on the voters' list now shown me. So help me God.

PP.

Oath of Messenger sent to collect the Ballot Boxes.

I, A. B., of _____, messenger appointed by C. D., Returning Officer, for the Electoral District of _____, in the Province of _____, do solemnly swear that the several boxes to the number of _____ now delivered by me to the said Returning Officer have been handed to me by the several Deputy Returning Officers at the present election for the said Electoral District (or by—here insert the names of the Deputy Returning Officers who have delivered said boxes), that they have not been opened by me, nor any other person, and that they are in the same state as they were when they came into my possession. (Should any change have taken place the deponent shall vary his deposition by fully stating the circumstances.

(Signature,) A.B.

Sworn (or affirmed) and subscribed before me, at _____ this day of _____, in the year 18 ____.

(Signature,) X.Y.,
Justice of the Peace.
or A.B.,
Returning Officer.
or G.H.,
Deputy Returning Officer.

Q.

Oath of the Deputy Returning Officer after the closing of the Poll.

I, the undersigned, Deputy Returning Officer for the polling district No. _____, of the Electoral District of _____, do solemnly swear (or, if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that to the

best of my knowledge and belief, the voters' list kept for the said polling district, under my direction, hath been so kept correctly; and that the total number of votes polled in the said list is _____, and that, to the best of my knowledge and belief, it contains a true and exact record of the votes given at the polling station in the said polling district, as the said votes were taken thereat; that I have faithfully counted the votes given for each candidate, in the manner by law provided, and performed all duties required of me by law, and that the report, packets of ballot papers, and other documents required by law to be returned by me to the Returning Officer, have been faithfully and truly prepared and placed within the ballot box, as this oath (*or* affirmation) will be, to the end that the said ballot box being first carefully sealed with my seal may be transmitted to the Returning Officer according to law.

(Signature,) G.H.,
Deputy Returning Officer.

Sworn before me at _____, in the County of _____,
, this _____ day of _____, 18 ____.

(Signature,) X.Y.,
Justice of the Peace.
or, A.B.,
Returning Officer.

R.

Oath of the Poll Clerk after the closing of the Poll.

I, the undersigned, Poll Clerk for the polling district No. _____, of the Electoral District of _____, do solemnly swear (*or if he be one of the persons permitted by law to affirm in civil cases*, do solemnly affirm) that the voters' list in and for the said _____ (*as the case may be*), under the direction of G.H., who has acted as Deputy Returning Officer therein, has been so kept by me under his direction as aforesaid, correctly and to the best of my skill and judgment; that the total number of votes polled in the said list is _____; and that to the best of my knowledge and belief, it contains a true and exact record of the votes given at the polling station in the said polling district, (*as the case may be*) as the said votes were taken at the said poll by the said Deputy Returning Officer.

(Signature,) I.J.,
Poll Clerk.

Sworn (*or* affirmed) and subscribed before me, at
this day of
in the year 18 .

(*Signature,*) X.Y.,
Justice of the Peace.
or, A.B.,
Returning Officer.
or, G.H.,
Deputy Returning Officer.

S.

Return after a Poll has been taken.

I hereby certify that the member (*or* members) elected for the Electoral District of _____, in pursuance of the within written writ, as having received the majority of votes lawfully given, is (*or* are) A.B., &c., (*names &c., as in the nomination papers.*)

(*Signed,*) R.O.,
Returning Officer.

36 VICT. CAP. 2.

An Act to render Members of the Legislative Councils and Legislative Assemblies of the Provinces now included,* or which may hereafter be included within the Dominion of Canada, ineligible for sitting or voting in the House of Commons of Canada.

[*Assented to 3rd May, 1873.*]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Members of a
Provincial
Legislature
not eligible as
Members of
the House of
Commons.
Election to be
void.

1. After the dissolution of the present Parliament of Canada, no person who is a Member of any Legislative Council or of any Legislative Assembly of any Province now included, or which may hereafter be included within the Dominion of Canada, shall be eligible as a Member of the House of Commons, or shall be capable of sitting or voting in the same ; and if any one so declared ineligible is, nevertheless, elected and returned as a Mem-

ber of the said House of Commons, his election shall be null and void.

2. If any Member of the House of Commons shall be elected and returned to any Legislative Assembly, or shall be elected or appointed a Member of any Legislative Council, and accept the seat, his election as a Member of the House of Commons shall thereupon become null and void, and his seat shall be vacated, and a new writ shall issue forthwith for a new election, as if he were naturally dead: Provided always, that any Member of the House of Commons, so elected or appointed without his knowledge or consent, and who, without taking his seat in the Provincial Legislature, within ten days after having been notified of his election, or if he is not within the Province at the time, then within ten days after his arrival within the Province, resigns his seat and notifies the Speaker of the House of Commons, he shall hold his seat in the House of Commons as if no election or appointment to a seat in a Provincial Legislature had been made.

A Member of the House of Commons elected to or appointed to a seat in a Provincial Legislature and accepting it, to vacate his seat in the Commons. *Proviso*, as to Members elected or appointed without their knowledge.

3. If any person who is made by this Act ineligible as a Member of the House of Commons, or incapable of sitting or voting therein, does, nevertheless, so sit or vote, he shall forfeit the sum of two thousand dollars for every day he sits or votes, and such sum may be recovered from him by any person who will sue for the same, by action in any form allowed by the law of procedure in the Province in which the action is brought, in any court having jurisdiction.

Penalty on persons hereby declared ineligible, sitting and voting in the House of Commons.

4. This Act shall apply to any election of a Member of the House of Commons which may take place after the passing thereof, during the continuance of the present Parliament, and to any member elected thereat.

Act to apply to elections held after its passing.

37 VICT. CAP. 10.*

An Act to make better provision for the trial of Controverted Elections of Members of the House of Commons, and respecting *the trial of contested elections* with.

[Assented to 26th May, 1874.]

WHEREAS it is expedient by one law, common to the whole Dominion of Canada, to make better provision for the

Preamble.

* See also next Act, 38 V. c. 10.

trial of Election Petitions, and the decision of matters connected with Controverted Elections of Members of the House of Commons of Canada: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

36 V., c. 27
repealed.

1. The Act passed in the thirty-sixth year of Her Majesty's reign, intituled: "*An Act to make better provision respecting Election Petitions, and matters relating to Controverted Elections of Members of the House of Commons*," is hereby repealed, except only as respects Elections held before the passing of this Act; with respect to which, and all matters connected with or pending upon them, it shall remain in force; and the Acts and enactments repealed by the said Act shall remain repealed, notwithstanding its repeal.

Exception.

Short title.

2. This Act may be cited for all purposes as "*The Dominion Controverted Elections Act, 1874*."

Interpretation
clause.

"The Court."

3. In this Act, and for the purposes thereof, the expression, "the Court," as respects Elections in the several Provinces hereinafter mentioned, respectively, shall mean the Courts hereinafter mentioned, or any Judges thereof, viz:—

1. *Relates to the Province of Quebec.*

2. In the Province of Ontario, any of the following Courts, viz: the Court of Error and Appeal, the Court of Queen's Bench, the Court of Common Pleas and the Court of Chancery, and the Chancellor, and Vice-Chancellors of the said Court, for that Province;

3. *Relates to the Province of Nova Scotia.*

4. *Relates to the Province of New Brunswick.*

5. *Relates to the Province of Manitoba.*

6. *Relates to the Province of British Columbia.*

7. *Relates to the Province of Prince Edward Island.*

Powers of the
court to be as
in ordinary
cases, when
not otherwise
provided.

And each of the said Courts, respectively, shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority, with reference to an election petition and the proceedings thereon, as if such petition were an ordinary cause within its jurisdiction.

Clause relating to the Province of Quebec.

"The Judge."

The expression "the Judge," shall mean the judge trying the election petition, or performing any duty to which the enactment in which the expression occurs has reference, and the word "judge" shall include the Chief Justice of the Court, and the

Chancellor and Vice-Chancellors of the Court of Chancery of the Province of Ontario.

4. The following terms shall, in this Act, have the meaning hereinafter assigned to them, unless there is something in the context repugnant to such construction, that is to say :— Interpretation
of other terms.

“Member,” shall mean a member of the House of Commons of Canada ;

“Election,” shall mean an election of a member to serve in the House of Commons of Canada ;

“Electoral District,” shall mean an electoral district entitled to return a member or members ;

“Candidate,” shall mean any person elected to serve as a member, and any person who has been nominated as a candidate at an election ;

“Corrupt practices,” or “corrupt practice,” shall mean acts in reference to elections which are declared to be corrupt practices by “*The Dominion Elections Act, 1874,*” or any other Act of the Parliament of Canada, or recognized as such by the common law of Parliament ;

See 37 V., c. 9, secs. 75 and 92–98, ante pages 70 and 72, for enumeration of corrupt practices.

“Rules of Court,” shall mean rules to be made as hereinafter mentioned ;

“Prescribed,” shall mean “prescribed by this Act, or by the rules of Court made in virtue of this Act ;”

“Clerk of the Court,” shall mean the Clerk of the Crown, Chief Clerk, or Prothonotary, or any officer of the Court, prescribed for the purpose in question.

5. For the purposes of this Act, the expression, “the Speaker,” shall mean the Speaker of the House of Commons ; and when the office of Speaker is vacant, or when the Speaker is absent from Canada, or is unable to act, the Clerk of the House of Commons, or any other officer for the time being performing the duties of the Clerk of the said House, shall be deemed to be substituted for and included in the expression “the Speaker.” The Speaker.

6. The rotation or order in which any duties, assigned by this Act to a single judge, shall be performed by the Judges of the Court respectively, and in Ontario the distribution of cases under this Act among the courts mentioned in sub-section 2 of Rotation of
judges and
courts for duty
under this
Act.

Proviso: as to cases now pending.

section 3, shall, if not prescribed by the law of the Province or the practice of the Court, be arranged by the Judges among themselves: Provided always, that in all election cases pending in the Province of Ontario, the petitions may be heard and all questions disposed of by any Judge of the Superior Courts of that Province, although not of the Judges composing the Elections Court, under the provisions of the Act of one thousand eight hundred and seventy-three, chapter twenty-seven.

Election petitions, what and by whom to be made.

7. A petition complaining of an undue return, or undue election of a member, or of no return or double return, or of any unlawful act, by any candidate not returned, by which he is alleged to have become disqualified to sit in the House of Commons, at any election held after the passing of this Act, may be presented to the Court by any one or more of the following persons:—

1. Some person who had a right to vote at the election to which the petition relates: or

2. A candidate at such election.

And such petition is in this Act called an election petition: Provided always that nothing herein contained shall prevent the sitting member from objecting under section ten, to any further proceeding on the petition by reason of the ineligibility or disqualification of the petitioner, or from proving under section sixty-six, that the petitioner was not duly elected.

Election petitions.

8. The following enactments are made with respect to the presentation of an election petition under this Act:—

Form and contents.

1. The petition may be in any prescribed form; but if or in so far as no form is prescribed, it need not be in any particular form, but it must complain of the undue election or return of a member, or that no return has been made, or that a double return has been made, or of matter contained in any special return made, or of some such unlawful act as aforesaid by a candidate not returned, and it must be signed by the petitioner, or all the petitioners if there are more than one.

Time for presenting.

2. The petition must be presented not later than thirty days after the day of publication in the *Canada Gazette* of the receipt of the return to the writ of election by the Clerk of the Crown in Chancery, unless it questions the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other act of bribery to have been committed by any member, or on his account, or with his privity, since the time of such return, in pursuance or in furtherance of such corrupt practice, in which case the petition may be presented at any time within thirty days after the date of such payment or act so committed; and in case any such petition is

presented, the sitting member, whose election and return is petitioned against, may, not later than fifteen days after service of such petition against his election and return, file a petition complaining of any unlawful and corrupt act by any candidate at the same election who was not returned and who is not a petitioner, and on whose behalf the seat is not claimed ;

3. Presentation of a petition shall be made by delivering it at the office of the clerk of the court, during office hours, or in any other prescribed manner ;

How presented.

4. At the time of the presentation of the petition, security for the payment of all costs, charges and expenses that may become payable by the petitioner,—

Security to be given.

(a) To any person summoned as a witness on his behalf, or

(b.) To the member whose election or return is complained of (who is hereinafter referred to as the respondent), or

(c.) To the Returning Officer, if his conduct be complained of, or

(d.) To the candidate not elected, whose conduct is complained of as aforesaid,—

Shall be given on behalf of the petitioner ;

5. The security shall be to the amount of one thousand dollars, and shall be given by a deposit of money with the Clerk of the Court ;

Security. Amount of, and how given.

6. The deposit shall not be valid unless it is made in gold coin, or Dominion notes being a legal tender under the Statutes of the Dominion at the time when the deposit is made ;

Gold or Dominion Notes.

7. The Clerk of the Court shall give a receipt for such deposit, which shall be evidence of the sufficiency thereof ;

Receipt for deposit.

8. On the presentation of the petition, the Clerk of the Court shall send a copy thereof by mail to the Returning Officer of the Electoral District to which the petition relates, who shall forthwith publish the same in such Electoral District.

Copy of petition to Returning Officer.

9. Notice of the presentation of a petition under this Act, and of the security, accompanied with a copy of the petition, shall, within five days after the day on which the petition shall have been presented, or within the prescribed time, or within such longer time as the court, or any judge thereof, may, under special circumstances or difficulty in effecting service, allow, be served by the petitioner on the respondent or respondents. In case service cannot be effected on the respondent or respon-

Notice to respondents.

Service of notice. dents either personally or at his or their domicile within the time granted by the court or judge, then it may be effected upon such other person, or in such other manner as the court or judge, on the application of the petitioner, may appoint.

Preliminary objections to petition. **10.** Within five days after the service of the petition and the accompanying notice, the respondent may present in writing any preliminary objections or grounds of insufficiency which he may have to urge against the petition or the petitioner, or against any further proceeding thereon, and shall, in such case, at the same time, file a copy thereof for the petitioner. The court, or any judge thereof, shall hear the parties upon such objections and grounds, and shall decide the same in a summary manner.

How decided.

Respondent's answer. **11.** Within five days after the decision upon the preliminary objections, if presented and not allowed, or on the expiration of the time for presenting the same, if none be presented, the respondent may file a written answer to the petition, together with a copy thereof for the petitioner; but whether such answer be or be not filed, the petition shall be held to be at issue, after the expiration of the said five days, and the court may at any time thereafter, upon the application of either party, fix some convenient time and place for the trial of the petition.

Petition at issue.

List of petitions at issue to be made. **12.** The Clerk of the Court shall, as soon as may be, make out a list of all petitions presented under this Act, and which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of such list (hereinafter referred to as the election list,) open to the inspection of any person making application; and such petitions, as far as conveniently may be, shall be tried in the order in which they stand on such list.

Trial of petition. **13.** Every election petition shall be tried by one of the judges of the court, without a jury: and it shall be competent for the judge, on such trial, to decide any question raised as to the admissibility of the evidence offered, or to receive such evidence under reserve, and subject to adjudication at the final hearing.

Place of trial. Proviso. The trial of an election petition shall take place in the electoral district, the election or return for which is in question: Provided always, that if it appears to the court that special circumstances exist, which make it desirable that the petition should be tried elsewhere than in such electoral district, the court may appoint such other place for the trial as may appear most convenient:

Notice. Notice of the time and place at which an election petition will be tried shall be given in the prescribed manner, not less than fourteen days before that on which the trial is to take place:

The judge of the trial may adjourn the same from time to time, and from any one place to another, in the same electoral district, as to him may seem convenient. Adjourn-
ments.

PRELIMINARY EXAMINATION OF PARTIES, ETC., AND PRO-
DUCTION OF DOCUMENTS.

14. Any party to an election petition, whether petitioner or respondent, may at any time after such petition is at issue, before or pending the trial thereof, be examined by or before a judge or an examiner, in the manner hereinafter directed, by a party adverse in point of interest, touching any matter raised by such petition; and any party so examined may be further examined on his own behalf, in relation to any matter respecting which he has been examined in chief; and when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf, or on behalf of those united with him in interest, to the same extent as the party so examined: Provided that such explanatory examination must be proceeded with immediately after the examination in chief, and not at any future period, except by leave of the court or a judge. When and
how parties
to petition
may be
examined.

Proviso.

15. Where any petition has been filed claiming the seat for a candidate, such candidate, although not a party to the petition, may be orally examined as if he were a petitioner. Candidate
claiming seat
may be
examined.

16. Any party to be examined orally, under the provisions of this Act, shall be so examined by or before a judge, a county court judge, a master in chancery, clerk of the crown, or special examiner of the court in which such election petition is pending, or before any barrister-at-law named for the the purpose by the court or the judge; and such examination shall take place in the presence of the parties, their counsel, agents or attorneys; and the party so examined orally shall be subject to cross-examination and re-examination; and such examination, cross-examination and re-examination shall be conducted as nearly as may be in the mode now in use in courts of common law on a trial at *nisi prius*, or in chancery at the hearing of a cause, or in the Province of Quebec at the trial of a civil cause by a jury; subject to the provisions hereinafter made. How such
examination
shall be
conducted.

17. The depositions taken upon any such oral examination as aforesaid, shall be taken down in writing by the examiner, not ordinarily by question and answer, but in the form of a narrative; and when completed shall be read over to the witness, and signed by him in the presence of the parties, or of such of them as may think fit to attend: Provided always, that in case the witness shall refuse or be unable to sign the said depositions, then the examiner shall sign the same; and such examiner may upon every examination, state any special matter to the court if he shall think fit: Provided also, that it Form of
depositions to
be narrative.

Proviso.

Proviso:
questions may
be put down
in certain
cases.

shall be in the discretion of the examiner to put down any particular question or answer, if there should appear to be any special reason for so doing; and any question or questions which may be objected to shall, at the request of either party, be noticed or referred to by the examiner in or upon the depositions; and he shall state his opinion thereon to the counsel, agents, attorneys or parties; and if requested by either party he shall refer to such statement on the face of the depositions.

Depositions to
be transmitted
to the Court.

18. When the examination before the examiner shall have been concluded, the original depositions authenticated by the signature of such examiner, shall be transmitted by him to the office of the court to be there filed; and any party to the petition may have a copy thereof, or of any part or portion thereof, upon payment for the same in such manner as shall be prescribed by the court in that behalf.

Compelling
attendance of
parties or
persons to be
examined.

19. The attendance of a party or other person for oral examination or cross-examination before the examiner, may be required by a writ *subpœna ad testificandum* or *duces tecum*, in like manner as such party or person would be required to attend the trial of the petition, and any party or person upon being served with such writ shall be bound to attend before the examiner; but such party or person shall be entitled to the like payment for attendance and expenses as if he had been subpœnaed to attend upon the trial.

Persons in
custody.

20. The sheriff, gaoler or other officer having the custody of any prisoner, may take such prisoner for examination before the examiner, under the authority of this Act, if so ordered by the court or a judge thereof.

Notice.

21. Forty-eight hours' notice of any such oral examination or cross-examination shall be given to the opposite party or parties.

Neglecting
to attend or
refusing to
answer, to be
contempt.

22. Any party or person refusing or neglecting to attend at the time and place appointed for his examination or cross-examination, or refusing to be sworn or to answer any lawful question put to him by the examiner, or by any party entitled so to do, or his counsel, agent or attorney, may be punished as for a contempt of court: Provided always, that if any witness shall demur or object to any question or questions which may be put to him, the question or questions so put, and the demurrer or objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the office of the court to be there filed; and the validity of such demurrer or objection shall be decided by the court or a judge thereof; and the costs of and occasioned by such demurrer or objection shall be in the discretion of the court or judge.

Witness may
demur to
questions.

Use of
depositions.

23. Any party to a petition shall be entitled to use, upon the trial of such petition, depositions taken by or before the

examiner, in accordance with the provisions of this Act : Pro- Proviso.
 provided that, where such party uses any portion of a deposition so
 taken, it shall be competent for the party against whom it is
 used to put in the entire evidence so taken, as well that in
 chief as that in explanation.

24. Any party to any election petition, whether petitioner Production,
 or respondent, may, at any time after such petition is at issue, inspection and
 before or pending the trial thereof, obtain a rule or order of the copies of
 court or of the judge, requiring the adverse party to produce documents.
 within ten days after the service thereof, under oath, all docu-
 ments in his custody or power relating to the matters in question,
 saving all just exceptions ; and to deposit the said documents with
 the clerk of the court ; and upon such documents being produced,
 the party requiring such production, or his agent or attorney
 may inspect the same and take examined copies thereof : Pro- Proviso.
 vided that, when any person upon whom a rule to produce has
 been served wishes to avail himself of any such exception as
 above mentioned, he must in his affidavit on production assign
 a sufficient reason why he should not produce and deposit the
 same in manner aforesaid.

25. The rule referred to in the preceding section shall be a Rule for
 rule in the nature of a side bar rule, and shall issue in vacation production,
 as in term, and may be obtained on the last as well as other how obtained.
 days of term ; and such rule shall be dated the day of the week,
 month and year on which the same was drawn up, and need not
 specify any other time or date ; and such rule may be obtained
 by the party requiring the same, his agent or attorney, from the
 clerk of the court.

26. The rule for the production of documents shall not Service.
 require personal service, and it shall be sufficient to serve the
 same upon the agent or attorney of the party.

27. The affidavit on production to be made by the party who Affidavit on
 has been served with the rule for production, may be in the production.
 form or to the effect of the schedule to this Act, varied as the
 facts require.

28. Any party neglecting or refusing to obey a rule for the Penalty for
 production of documents, may be punished as for a contempt disobedience.
 of court.

29. At the conclusion of the trial the judge shall determine Decision and
 whether the member whose election or return is complained of, Certificate of
 or any and what other person was duly returned or elected, Judge.
 or whether the election was void and other matters arising out of
 the petition, and requiring his determination, and shall except
 only in the case of appeal hereinafter mentioned *immediately*
 after the expiration of eight days from the day on which he
 shall so have given his decision, certify in writing such deter- To be certified
to Speaker.

mination to the Speaker, appending thereto a copy of the notes of the evidence, and the determination thus certified shall be final to all intents and purposes.

This section was amended by 38 V. c. 10, sec. 3, by striking out the word "immediately" (printed in italics) and substituting "within four days."

Judge's report if corrupt practices are charged.

30. When any charge is made in an election petition of any corrupt practice having been committed at the election to which the petition refers, the judge shall, in addition to such certificate, and at the same time, report in writing to the Speaker, as follows—

(a) Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election, stating the name of such candidate, and the nature of such corrupt practice ;

(b.) The names of any persons who have been proved at the trial to have been guilty of any corrupt practice ;

(c). Whether corrupt practices have, or whether there is reason to believe that corrupt practices have extensively prevailed at the election to which the petition relates.

Special report at his discretion.

31. The judge may, at the same time, make a special report to the Speaker, as to any matters arising in the course of the trial, an account of which ought, in his judgment, to be submitted to the House of Commons.

Judge may direct a special case to be stated.

32. When upon the application of any party to an election petition duly made to the judge, it appears to such judge that the case raised by the petition can be conveniently stated, as a special case, such judge may direct the same to be so stated, and any such special case shall, as far as may be, be heard before such judge, who shall thereupon give such judgment as to justice may appertain, and in case the decision be final the judge shall certify to the Speaker his decision on such special case, in the manner and time specified in section twenty-nine of this Act :

Decision thereon.

33. *Relates to Quebec only.*

34. *Relates to Quebec only.*

Appeal from decision of judge in other Provinces than Quebec.

35. Provided also, that in any other of the Provinces any party to the petition who may be dissatisfied with the decision of the Judge on any question of law or of fact, and desires to appeal against the same, may within the said delay of eight days from the day on which the judge has given his decision, deposit in the court of which the said judge is a member, with the proper officer of the court whose duty it is to receive moneys

ordered to be paid into court in other cases, the sum of one hundred dollars by way of security for costs, and thereupon the clerk, registrar or other proper officer of the said court shall set the matter of the said petition down for hearing before the full court of which the said judge is a member as aforesaid, on the first or second paper day of the next term, if the said judge be a member of a court of common law, or on the rehearing list of the next term if the said judge be a member the Court of Chancery for Ontario, and the party so appealing shall thereupon within three days or such further time as the judge may upon application allow, give to the other parties to the said petition, affected by the said appeal or their respective attorneys or agents, by whom such parties were represented in the trial of the said petition, notice in writing that the matter of the said petition has been so set down to be heard in appeal as aforesaid, in and by which notice the said party so appealing as aforesaid, may, if he desires, limit the subject of the said appeal to any special and defined question or questions and the said appeal shall thereupon be heard and determined by the said full court; and such judgment shall be pronounced both upon questions of law and of fact as should in the opinion of the said court have been delivered by the said judge; and the court may make such order as to the return of the said deposit and as to the costs of the said appeal, as it may think just; and the registrar, clerk or other proper officer of the said court shall thereupon certify to the Speaker, the judgment and decision of the said court upon the several questions and matters of fact as well as of law upon which the judge might otherwise have determined or certified his decision in pursuance of this Act, in the same manner as the judge would otherwise have done, and the said judgment and decision shall be final to all intents and purposes.

Notice to other parties, its purport.

Hearing and judgment.

Certificate to speaker.

Judgment to be final.

36. The Speaker shall, at the earliest practicable moment after he receives the certificate and report or reports (if any) of the court or judge, give the necessary directions and adopt all the proceedings necessary for confirming or altering the return, or for the issuing of a new writ for a new election, (for which purpose the Speaker may address his warrant, under his hand and seal, to the Clerk of the Crown in Chancery,) or for otherwise carrying the determination into execution, as circumstances may require:

Speaker's duty on receiving judge's certificate.

The Speaker shall, without delay, communicate to the House of Commons, the determination, report and certificate of the court or judge, and his own proceedings thereon:

To inform the House.

Where the judge makes a special report, the House of Commons may make such order in respect of such special report, as they think proper.

If there is a special report.

37. Unless the judge otherwise directs, any charge of corrupt practices may be gone into, and evidence in relation there-

As to evidence of corrupt practices.

to received, before any proof has been given of agency on the part of any candidate in respect of such corrupt practices.

Acceptance
of office or
resignation
not to stop
proceedings.

Proviso :
31 V. , c. 25.

38. An election petition may be presented, and the trial of an election petition under this Act shall be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown, or the resignation of his seat, but the respondent may, notwithstanding anything in this or any other Act contained, accept office at any time after the election, subject always to the provisions of the twelfth section of the Act passed in the thirty-first year of Her Majesty's reign, and intitled "*An Act further securing the Independence of Parliament*," in construing which after this Act is in force, the words "court or judge" shall be substituted for the words "election committee."

See the section referred to post page 127.

Nor a proroga-
tion.

39. The trial of an election petition under this Act shall be proceeded with, notwithstanding the prorogation of the Parliament of Canada.

PROCEDURE.

Service of
petition, &c.

40. An election petition under this Act, and notice of the date of the presentation thereof, and a copy of the deposit receipt shall be served as nearly as may be in the manner in which a writ of summons is served in civil matters, or in such other manner as may be prescribed.

Joint respon-
dents.

41. Two or more candidates may be made respondents to the same petition, and their cases may, for the sake of convenience, be tried at the same time; but as regards the security required under section eight of this Act, and for all other purposes of this Act, such petition shall be deemed to be a separate petition against each respondent.

When more
than one
petition as to
same election.

42. Where under this Act more petitions than one are presented relating to the same election or return, all such petitions shall, in the election list, be bracketed together, and shall be dealt with, as far as may be, as one petition; but such petitions shall stand in the election list in the place where the last presented of them would have stood if it had been the only one presented as to such election or return, unless the court orders otherwise.

Judge may
extend time
for taking
proceedings.

43. The judge shall, upon sufficient cause being shown, have power on the application of any of the parties to a petition, to extend from time to time the period limited by this Act for taking any steps or proceedings by such party.

JURISDICTION AND RULES OF COURT.

Judges of the
court to make
rules.

44. The judges of the several courts in each Province respectively, or a majority of them, may, from time to time, make and

may, from time to time, revoke and alter general rules and orders (in this Act referred to as rules of court) for the effectual execution of this Act and of the intention and object thereof, and the regulation of the practice and procedure and costs with respect to election petitions and the trial thereof, and the certifying and reporting thereon :

(2.) Any general rules and orders made as aforesaid, and not inconsistent with this Act, shall be deemed to be within the powers conferred by this Act, and shall, while unrevoked, be of the same force as if they were enacted in the body of this Act : Their effect.

(3.) Any general rules and orders made in pursuance of this section, shall be laid before the House of Commons within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament. To be laid before the House of Commons.

45. Until rules of court have been made by the judges of the several courts in each Province in pursuance of this Act, and so far as such rules do not extend, the principles, practice and rules on which election petitions touching the election of members of the House of Commons in England, are, at the time of passing of this Act, dealt with, shall be observed so far as consistently with this Act they may be observed by the courts and the judges thereof. Practice in cases not provided for

RECEPTION, EXPENSES AND JURISDICTION OF THE JUDGE.

46. The judge shall be received and attended at the place where he is about to try an election petition under this Act, if he be not resident there, in the same manner, so far as circumstances will admit, as if he were about to hold a sitting at *nisi prius*, or a sitting of the provincial court of which he is a member. Reception and attendance of judge.

47. The travelling expenses of the judge, and all expenses incurred by the sheriff or other officer in consequence of any sitting for the trial of an election petition, and providing a court room and accessories, shall be defrayed in like manner as ordinary travelling expenses of the judge in the Province are payable by the Dominion of Canada. Expenses how paid.

48. On the trial of an election petition and in other proceedings under this Act, the judge shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority as a judge of one of the superior courts of law or equity for the Province in which such election was held, sitting in term, or presiding at the trial of an ordinary civil suit, and the court held by him for such trial shall be a court of record. Powers of the judge.

WITNESSES.

- Witnesses how summoned and sworn.** **49.** Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances will admit, as in cases within the jurisdiction of the superior courts of law or equity in the same Province; and shall be subject to the same penalties for perjury;
- Compelling attendance of witnesses.** **50.** On the trial of an election petition under this Act, the judge may, by order under his hand, compel the attendance of any person as a witness who appears to him to have been concerned in the election to which the petition refers, and any person refusing to obey such order shall be guilty of contempt of court. The judge may examine and re-examine any witness so compelled to attend or any person present, although such witness and person be not called and examined by any party to the petition. After the examination of a witness as aforesaid by a judge, such witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them.
- Examination.**
- Shorthand writer may be employed to take down oral evidence.** **51.** The judge may, in his discretion, employ a shorthand writer to take down the oral evidence given by witnesses at the trial of the petition, and the expense of employing such shorthand writer shall be costs in the case.
- Witness not to be excused from answering by any privilege.** **52.** No person shall be excused from answering any question put to him under this Act, touching or concerning any election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or that the answer to such question will tend to criminate such person; but no answer given by any person claiming to be excused on the ground of privilege, or that such answer will tend to criminate himself, shall be used in any criminal proceeding against any such person, other than an indictment for perjury, if the judge gives to the witness a certificate that he claimed the right to be excused on the grounds aforesaid, and made full and true answers to the satisfaction of the judge.
- Proviso: as to use of answers.**
- Expenses of witnesses.** **53.** The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition under this Act, according to the scale allowed to witnesses on the trial of civil actions in the superior courts of law or equity in the same Province, may be allowed to such person by a certificate under the hand of the judge or of the clerk of the court; and such expenses, if the witness was called and examined by the judge, shall be deemed part of the expenses of providing a court, and in other cases shall be deemed costs of the party calling the witness, and shall be taxed against such party interested in the trial of such petition, as the judge may determine.
- How paid.**

WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

54. An election petition under this Act shall not be withdrawn without the leave of the court or judge (according as the petition is then before the court, or before the judge for trial) upon special application to be made in and at the prescribed manner, time and place : Withdrawal of petitions, to be by leave of the Court or the Judge.

No such application shall be made until the prescribed notice has been given, in the Electoral District to which the petition relates, of the intention of the petitioner to make an application for the withdrawal of his petition. To be after notice.

On the hearing of the application for withdrawal, any person, who might have been a petitioner in respect of the election to which the petition relates, may apply to the court or judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition : Substitution of a petitioner.

The court or judge may, if it or he think fit, substitute as petitioner any such applicant as aforesaid, and may further if the proposed withdrawal is, in the opinion of the court or judge, induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in such security, the original petitioner shall be liable to pay the costs of the substituted petitioner : Additional security may be ordered in certain cases.

If no such order be made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within the prescribed time after the order of substitution : If not ordered.

Subject as aforesaid, a substituted petitioner shall stand in the same position, as nearly as may be, and be subject to the same liabilities as the original petitioner : Effect of substitution.

If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent, unless the court or judge otherwise orders : Costs.

When there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners. All petitioners must join in withdrawal.

55. In every case of withdrawal of an election petition, under this Act, if the court or judge is of opinion that the withdrawal of such petition was the result of any corrupt arrangement or in consideration of the withdrawal of any other Report to Speaker if withdrawal be corrupt.

petition, the court or judge shall report such opinion to the Speaker, stating the reasons thereof and the circumstances attending the withdrawal.

Abatement by
death of
petitioner.

56. An election petition under this Act shall be abated by the death of a sole petitioner, or of the survivor of several petitioners ;

Costs.

The abatement of a petition, shall not affect the liability of the petitioner to the payment of costs previously incurred ;

Notice of
abatement.

On the abatement of a petition, the prescribed notice of such abatement having taken place shall be given in the electoral district to which the petition relates ; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the court or judge, in and at the prescribed manner, time and place, to be substituted as a petitioner ;

Substitution
of a new
petitioner.

The court or judge may, if it or he think fit, substitute as a petitioner any such applicant who is desirous of being substituted, and on whose behalf security to the same amount is given as is required in the case of a new petition.

Abatement by
death, &c., of
respondent.

57. If before or during the trial of any election petition under this Act, any of the following events happen in the case of the respondent, that is to say,—

(1.) If he dies ;

(2.) If the House of Commons has resolved that his seat is vacant ;

(3.) If he gives notice to the court or judge in and at the prescribed manner and time, that he does not intend to oppose or further to oppose the petition ;

(4.) If he is summoned to Parliament as a Member of the Senate,—

Notice.

Notice of such event having taken place shall be given in the Electoral District to which the petition relates, and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the court or judge to be admitted as a respondent to oppose the petition or so much thereof as may remain undisposed of and such person shall, on such application, be admitted accordingly to oppose such petition or such undisposed of portion thereof, either with the respondent, if there be one, or in place of the respondent ; and any number of persons, not exceeding three, may be so admitted ; and if either of such events happen during the

New
respondent.

Adjournment
of trial.

trial the judge shall adjourn the same, in order to the giving of notice that such event has happened, as herein provided; and the person or persons so admitted shall have the same liability as the respondent with respect to any costs thereafter incurred.

Liability of
new respondent.

58. A respondent who has given the prescribed notice that he does not intend to oppose or further oppose the petition, shall not be allowed to appear or act as a party against such petition in any proceedings thereon, and shall not sit or vote in the House of Commons until the House has been informed of the report on the petition; and the court or judge shall, in all cases in which such notice has been given in the prescribed time and manner, report the same to the Speaker.

Respondent
not opposing
petition.

59. When an election petition under this Act complains of a double return, and the respondent has given notice in the prescribed time and manner that it is not his intention to oppose the petition, and no party has been admitted, in pursuance of this Act, to oppose the petition, then the petitioner, if there be no petition complaining of the other member returned on such double return, may withdraw his petition, by notice addressed to the prescribed officer, and upon such withdrawal the prescribed officer shall report the fact to the Speaker, and the House of Commons shall, thereupon, give the necessary directions for amending the said double return, in such manner as the case may require.

Double return
and respondent
not
opposing.

COSTS.

60. All costs, charges and expenses of and incidental to the presentation of an election petition under this Act, and to the proceedings consequent thereon, with the exception of such costs, charges and expenses as are by this Act otherwise provided for, shall be defrayed by the parties to or those opposing the petition, in such manner and in such proportions as the court or judge may determine,—regard being had to the disallowance of any costs, charges or expenses which may, in the opinion of the court or judge, have been caused by vexatious conduct, unfounded allegations or unfounded objections, on the part either of the petitioner or the respondent, and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused whether such parties are or are not on the whole successful;

Costs of
proceedings
under this
Act.

The costs may be taxed in the prescribed manner, but according to the same principles as costs are taxed between parties in actions at law, and such costs may be recovered in the same manner as the costs in actions at law in the same Province, or in such other manner as may be prescribed.

How taxed
and recovered.

61. In the event of costs being awarded in favour of any party against any petitioner, such party shall, after the expiration of the prescribed time, deposit the amount of the costs so awarded.

Recovery of
costs against
petitioner out
of deposit.

Or if deposit
insufficient, by
execution.

tion of thirty days from the rendering of the decision by the judge, or, in case of an appeal, by the court, upon the production of a certificate of taxation from the proper officer, be entitled to receive out of the deposit the amount taxed to him as aforesaid, if the aggregate of the costs taxed against the said petitioner, certificates whereof are within the said period of thirty days filed with the registrar, clerk or other proper officer, do not exceed the deposit, or if the total amount of the said certificates so filed as aforesaid exceed the deposit, then his proportion thereof: and in the event last aforesaid such party shall be entitled forthwith to issue execution, according to the practice in ordinary cases, against the petitioner's goods or lands, for the residue of the costs so taxed to him as aforesaid.

MISCELLANEOUS.

As to Sundays
and holidays.

62. If the time limited by this Act for any proceeding, or the doing of anything under its provisions, expires or falls upon a Sunday, or any day which is a holiday under the Interpretation Act, the time so limited shall be extended to, and such thing may be done on the day next following, which is not a Sunday or such holiday.

To what
elections this
Act shall
apply.

63. All elections held after the passing of this Act, shall be subject to the provisions thereof, and shall not be questioned otherwise than in accordance therewith; but no election or return held or made prior to the passing of this Act, shall be controverted or questioned under it, and all contestations of such elections or returns shall be governed by the laws then in force with respect to controverted elections for the House of Commons. But the provisions of sections thirty-three, thirty-four and thirty-five of this Act shall apply to all proceedings upon election petitions pending under "*The Controverted Elections Act, 1873*," at the time of the passing hereof.

Sections 33,
34, 35, to
apply to pend-
ing cases un-
der 36 V. c. 28.

If Returning
Officer is
complained of

64. Whenever any election petition complains of the conduct of any Returning Officer, such Returning Officer shall, for all the purposes of this Act, except the admission of respondents in his place, be deemed to be a respondent.

If the com-
plaint be no
return.

65. A petition under this Act, complaining of no return, may be presented, and shall be deemed to be an election petition within the meaning of this Act, and such order may be made thereon by the court or judge as it may deem expedient for compelling a return to be made; or the court or judge may allow such petition to be tried in the manner hereinbefore provided with respect to ordinary election petitions.

If the seat be
claimed for
person not
returned.

66. On the trial of a petition under this Act complaining of an undue return and claiming the seat for some person, the respondent may give evidence to show that the election of such person was undue, in the same manner as if he had presented a petition complaining of such election.

67. Any person who, according to the law of the Province in which the petition is to be tried, is entitled to practice as an attorney-at-law or solicitor, before the superior courts of such Province, *and who is not a member of the House of Commons*, may practice as attorney or agent, and any person who according to such law, is entitled to practice as a barrister-at-law or advocate before such courts, *and who is not a member of the House of Commons*, may practice as counsel, in the case of such petition and all matters relating thereto, before the court or judge in such Province.

Who may practice in cases under this Act.

The words in the above section "who is not a member of the House of Commons," (printed in italics) are struck out by 38 V. c. 10, sec. 7.

SCHEDULE.

(Form of Affidavit on production of Books and Papers.)

Form of affidavit on production of books, &c.

In the (name of Court)

Election for holden on the day of A.D.

I, of make oath and say :—

1. That I have in my possession or power the documents relating to the matters in question set forth in the first and second parts of the first schedule hereto annexed.

2. I object to produce the said documents set forth in the second part of the said first schedule.

3. *(State upon what grounds objection is made, and verify the facts as far as may be.)*

4. I have had, but have not now, in my possession or power the documents relating to the matters in question set forth in the second schedule hereto annexed.

5. The last mentioned documents were last in my possession or power on *(state when.)*

6. *(State what has become of the last mentioned documents, to whom you have given them, and in whose possession they now are.)*

7. According to the best of my knowledge, remembrance, information and belief, I have not now, and never had in my own possession, custody or power, or in the possession, custody or power of my agents or attorneys, agent or attorney, or in the possession, custody or power of any other person on my behalf, any deed, account, book of accounts, minutes, voucher, receipt,

letter, memorandum, paper, or writing, or any copy of or extract from any such document or other document whatever, relating to the matters in question, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the first and second schedule hereto annexed.

Sworn, &c.

(Annex the schedules mentioning the documents in question.)

38 VICT. CAP. 10.

An Act to amend the Acts respecting Controverted Elections.

[Assented to 8th April, 1875.]

Preamble.

36 V., c. 28.

37 V., c. 10.

IN amendment of the Act passed in the thirty-sixth year of Her Majesty's reign, and intituled: *An Act to make better provision respecting Election Petitions, and matters relating to Controverted Elections of Members of the House of Commons,* and of the Act passed in the thirty-seventh year of Her Majesty's reign, and intituled: "*An Act to make better provision for the Trial of Controverted Elections of Members of the House of Commons, and respecting matters connected therewith,*"—Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Case in which trial shall not be commenced, &c., during a Session.

1. Whenever it appears to the court or judge that the respondent's presence at the trial is necessary, the trial of an election petition shall not be commenced during any Session of Parliament, and in the computation of any delay allowed for any step or proceeding in respect of any such trial, or for the commencement of such trial under the next following section, the time occupied by any such Session shall not be reckoned.

When to be commenced and proceeded with in other cases.

2. Subject to the provisions of the next preceding section, and except that it shall not be commenced or proceeded with during any term of the court of which the judge trying it is a member, and at which he by law is bound to sit, the trial of every election petition shall be commenced within six months from the time when such petition has been presented, and shall be proceeded with *de die in diem*, until the trial is over, unless on application supported by affidavit it be shewn that the requirements of justice render it necessary that a postponement of the case should take place: Provided that in any case when the period limited for the commencement of the trial may have

Proviso.

elapsed before the prorogation of Parliament at the end of the present Session, such trial may be commenced at any time within two months after such prorogation; Provido. that whenever three months have elapsed after such petition has been presented, without the day for the trial being fixed, any elector may, on application, be substituted for the petitioner on such terms as shall be just.

3. Section twenty-nine of the Act secondly mentioned in the preamble to this Act is hereby amended by striking out the word "immediately," where it occurs in the sixth line of the said section, and inserting the words "within four days" in lieu thereof. Sect. 29 of 37 V., c. 10 amended.

4. In case on the trial of any Election Petition under either of the said Acts, it is determined that the election is void by reason of any act of an agent committed without the knowledge and consent of the candidate, and that costs should be awarded to the petitioner in the premises, the agent may be condemned to pay such costs; and the court or judge shall order that such agent be summoned to appear at a time fixed in such summons, in order to determine whether such agent should be condemned to pay such costs: If at any time so fixed the agent so summoned do not appear he shall be condemned on the evidence already adduced to pay the whole or a due proportion of the costs awarded to the petitioner; and if he do appear, the court or judge after hearing the parties and such evidence as shall be adduced shall give such judgment as to law and justice shall appertain: The petitioner shall have process to recover such costs against such agent in like manner as he might have such process against the respondent; and no process shall issue against the respondent to recover such costs until after the return of process against such agent. When agent may be made to pay costs.
Summons to agent.
If he does not appear.
If he appears.
Process to recover costs.

5. Whereas doubts have arisen as to the proper construction of sections seventy-three, one hundred and one, and one hundred and three, of "*The Dominion Elections Act, 1874*," and as to the effect upon elections held under the said Act, of the avoiding of previous elections, it is hereby enacted, that elections held under the said Act, as well elections already held as elections hereafter to be held, shall be deemed and taken, as respects both candidates and voters, to be new elections in law and in fact to all intents and purposes whatsoever, except as to the personal acts of the candidates and the acts of agents of candidates done with the knowledge and consent of such candidates. Sects. 73, 101 and 103 of 37 V., c. 9, cited, and doubts under them removed.

6. The next preceding section shall also apply to controverted elections tried under "*The Controverted Elections Act, 1873*," as to the effect upon the status of the candidate of the acts of agents done without the knowledge or consent of the candidate, but no further or otherwise. How far sect. 5 shall apply to Controverted Elections under 36 V., c. 28.

Sect. 67 of 37
V., c. 10
amended.

7. The sixty-seventh section of the said secondly recited Act is hereby amended by striking out therefrom, wherever they occur, the words "and who is not a member of the House of Commons."

Provision in
case of Petition
under 36 V., c.
28, not tried
within a year.

8. In every case of an Election Petition presented under "*The Controverted Elections Act, 1873*," in which twelve months shall have lapsed since the said petition was presented and it shall then be untried, the respondent may require, and the petitioner within six days after demand, shall give new security in accordance with the terms of "*The Dominion Controverted Elections Act, 1874*," for the payment of all costs, charges and expenses that may become payable by the petitioner in respect of such petition; and in default of such security being given when so demanded within the time aforesaid the said petition shall be dismissed.

31 VICT. CAP. 23.

An Act to define the privileges, immunities and powers of the Senate and House of Commons, and to give summary protection to persons employed in the publication of Parliamentary Papers.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Privileges, &c.
to be the same
as those of the
House of Com-
mons of the
United King-
dom, at the
passing of
the Union
Act.

1. The Senate and the House of Commons respectively, and the Members thereof respectively, shall hold, enjoy and exercise such and the like privileges, immunities and powers as, at the time of the passing of the British North America Act, 1867, were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof, so far as the same are consistent with and not repugnant to the said Act.

Such privileges
to be noticed
judicially.

2. Such privileges, immunities and powers shall be deemed to be and shall be part of the General and Public Law of Canada, and it shall not be necessary to plead the same, but the same shall in all Courts in Canada and by and before all Judges be taken notice of judicially.

Printed copy of
journals to be
evidence there-
of.

3. Upon any inquiry touching the privileges, immunities and powers of the Senate and of the House of Commons or of any Member thereof respectively, any copy of the Journals of the

Senate, or House of Commons, printed or purporting to be printed by the order of the Senate or House of Commons, shall be admitted as evidence of such Journals by all Courts, Justices, and others, without any proof being given that such copies were so printed.

4. Any person who shall be a Defendant in any Civil or Criminal proceedings commenced or prosecuted in any manner soever for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant, by or under the authority of the Senate or House of Commons, may bring before the Court in which such proceedings shall be so commenced or prosecuted or before any Judge of the same, first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceeding or to his Attorney or Solicitor, a certificate under the hand of the Speaker or Clerk of the Senate or House of Commons, as the case may be, stating that the report, paper, votes or proceedings as the case may be, in respect whereof such Civil or Criminal proceedings shall have been commenced or prosecuted, was or were published by such person or by his servant, by order or under the authority of the Senate or House of Commons, as the case may be, together with an affidavit verifying such certificate; and such Court or Judge shall thereupon immediately stay such Civil or Criminal proceedings, and the same and every Writ or Process issued therein shall be and shall be deemed and taken to be finally put an end to, determined and superseded by virtue of this Act.

In suit, &c., for publishing reports, &c., Court or Judge, to stay proceedings on proof that the publication was by authority of either House.

5. In case of any Civil or Criminal Proceedings hereafter to be commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant at any stage of the proceedings may lay before the Court or Judge, such report, paper, votes or proceedings, and such copy, with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy, and the Court or Judge shall immediately stay such Civil or Criminal proceedings, and the same and every Writ or Process issued therein, shall be and shall be deemed to be finally put an end to, determined and superseded by virtue of this Act.

The like in cases commenced hereafter.

6. It shall be lawful in any Civil or Criminal proceeding to be commenced or prosecuted for printing any extract from or abstract of any such report, paper, votes or proceedings, to give in evidence under the general issue or denial, such report, paper, votes or proceedings, and to show that such extract or abstract was published *bonâ fide* and without malice, and if such shall be the opinion of the Jury, a Verdict of not guilty shall be entered for the Defendant.

What proof may be made under the plea of general issue, in action for publishing extracts, &c., of such reports, &c.

31 VICT. CAP. 25.

An Act further securing the Independence of Parliament.

[Assented to 22nd May, 1868.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Except as hereinafter specially provided.

Offices of profit, &c., under Government of Canada to disqualify.

"1. No person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown to which an annual salary, or any fee, allowance or emolument or profit of any kind or amount whatever from the Crown is attached, shall be eligible as a member of the House of Commons, nor shall he sit or vote in the same, during the time he holds such office, commission or employment ;"

The first sub-section was amended so as to read as above, by 34 V., c. 19, sec. 1, see page 127, post.. But the sub-section so amended is to be subject to the exceptions made in the two following sub-sections of the said section.

Exception as to Members of the Privy Council, or persons holding certain offices.

2. Nothing in this section shall render ineligible as aforesaid, any person holding any of the following offices, that is to say: President of the Privy Council, Receiver General, Minister of Finance, Minister of Justice, Minister of Militia and Defence, Secretary of State, *Secretary of State for the Provinces*, Minister of Public Works, Postmaster-General, Minister of Agriculture and Emigration, Minister of Inland Revenue, Minister of Customs, or Minister of Marine and Fisheries, or shall disqualify him to sit or vote in the House of Commons, provided he be elected while holding such office, and not otherwise disqualified ;

Proviso.

Also the Minister of the Interior 36 V., c. 4. The office of Secretary of State for the Provinces is abolished. 36 V., c. 4, sec. 14.

Exception as to one Commissioner of Intercolonial Railway and Officers in the Army, Navy or Militia.

3. Nothing in this section shall render ineligible, as aforesaid, or disqualify to sit or vote in the House of Commons, *one of the Commissioners appointed under the Act respecting the Intercolonial Railway*, or any Officer of Her Majesty's Army or Navy, or any Officer in the Militia or Militiaman (except Officers on the Staff of the Militia receiving permanent salaries) unless he be otherwise disqualified.

The office of Commissioner of the Intercolonial Railway is abolished by 37 V., c. 15, sec. 1.

2. No person whosoever holding or enjoying, undertaking or executing, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, any contract or agreement with Her Majesty, or with any Public Officer or Department, with respect to the public service of Canada, or under which any public money of Canada is to be paid for any service or work, shall be eligible as a Member of the House of Commons, nor shall he sit or vote in the same.

No contractor with the Government of Canada to be a member of the H. of Commons.

3. If any person hereby disqualified or declared incapable of being elected a Member of the House of Commons, is nevertheless elected and returned as a member, his election and return shall be null and void.

Election of persons disqualified, to be null.

4. No person disqualified by the next preceding sections or by any other law, to be elected a Member of the House of Commons, shall sit or vote in the same while he remains under such disqualification :

No disqualified person shall sit or vote.

2. And if any person disqualified or declared incapable of sitting or voting in the House of Commons, by the first, second or third sections, sits or votes therein, he shall thereby forfeit the sum of two thousand dollars, for each and every day on which he so sits or votes ; and such sum may be recovered from him by any person who will sue for the same, by action of debt, bill, plaint or information in any Court of competent civil jurisdiction in Canada.

Penalty for so doing.

How recoverable.

5. If any Member of the House of Commons, by accepting any office or becoming a party to any contract or agreement, becomes disqualified by law to continue to sit or vote in the same, his election shall thereby become void, and the seat of such Member shall be vacated, and a Writ shall forthwith issue for a new election as if he were naturally dead ; but he may be re-elected if he be eligible under the first section of this Act.

Member accepting Office, &c. to vacate his seat.

May be re-elected under sect. 1. par. 2.

6. Nevertheless, whenever any person holding the office of President of the Privy Council, Receiver-General, Minister of Finance, Minister of Justice, Minister of Militia and Defence, Secretary of State, *Secretary of State for the Provinces*, Minister of Public Works, Postmaster-General, Minister of Agriculture and Emigration, Minister of Inland Revenue, Minister of Customs, or Minister of Marine and Fisheries, and being at the same time a Member of the House of Commons, resigns his office, and within one month after his resignation accepts any of the said offices, he shall not thereby vacate his seat in the said House of Commons.

Certain Officers may resign one office and accept the same or another within a month without vacating.

7. Any Member of the House of Commons may voluntarily resign and vacate his seat in the manner hereinafter provided.

Members may resign their seats.

Proceedings in such case for issue of new writ, by notice in the House;

Speaker's warrant.

8. Any such Member wishing to resign his seat, may do so by giving in his place in the House of Commons notice of his intention to resign it, in which case and immediately after such notice has been entered by the Clerk on the Journals of the House, the Speaker may address his Warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a Writ for the election of a new member in the place of the member resigning;

Or by notice in writing to the Speaker.

Speaker's warrant.

Entry in Journals.

2. Or such member may address and cause to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses, which declaration may be so made and delivered either during a Session of Parliament or in the interval between two Sessions,—and the Speaker may upon receiving such declaration forthwith address his Warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a Writ for the Election of a new Member in the place of the Member so resigning, and a Writ shall issue accordingly,—and an entry of the declaration so delivered to the Speaker shall be thereafter made in the Journals of the House;

Seat vacated on such notice.

3. And the Member so tendering his resignation, shall be held to have vacated his seat and cease to be a member of such House.

No member to resign while his seat is contested.

9. But no Member shall so tender his resignation while his election is lawfully contested, nor until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery.

Proceedings when a member wishes to resign, when there is no Speaker, or the member be himself the Speaker.

10. If any Member of the House of Commons wishes to resign his seat in the interval between two Sessions of the Parliament, and there is then no Speaker, or if such Member be himself the Speaker,—he may address and cause to be delivered to any two Members of the House, the declaration before mentioned of his intention to resign; and such two Members upon receiving such declaration shall forthwith address their warrant under their hands and seals to the Clerk of the Crown in Chancery, for the issue of a new writ for the election of a Member in the place of the Member so notifying his intention to resign, and such writ shall issue accordingly:—And the member so tendering his resignation shall be held to have vacated his seat and cease to be a member of the House.

Proceedings in case of vacancy, by death or acceptance of office.

New writ.

11. If any vacancy happens in the House of Commons by the death of any Member or by his accepting any Office, the Speaker on being informed of such vacancy by any Member of the House in his place,—or by notice in writing under the hands and seals of any two Members of the House,—shall forthwith address his warrant to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a Member to fill the vacancy, and a new writ shall issue accordingly.

2. And if when such vacancy happens, or at any time there- after before the Speaker's warrant for a new writ has issued, there be no Speaker of the House, or the Speaker be absent from Canada, or if the Member whose seat is vacated be himself the Speaker,—then, any two Members of the House may address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a Member to fill such vacancy, and such writ shall issue accordingly.

If the speaker is absent from Canada, or there is no Speaker, or the member resigning is the Speaker.

12. A warrant may issue to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a Member of the House of Commons to fill up any vacancy arising subsequently to a general election and before the first meeting of Parliament thereafter, by reason of the death or acceptance of office of any Member, and such writ may issue at any time after such death or acceptance of office:

Warrant for filling a vacancy before Parliament meets after a general Election.

2. But the election to be held under such writ, shall not in any manner affect the rights of any person entitled to contest the previous election; and the report of any *Election Committee* appointed to try such previous election, shall determine whether the Member who has so died or accepted office, or any other person, was duly returned or elected thereat, which determination, if adverse to the return of such Member and in favour of any other Candidate, shall avoid the election held under this section, and the Candidate declared duly elected at the previous election shall be entitled to take his seat as if no such subsequent election had been held.

Proviso, saving right of any person to contest.

Election Committee to decide &c.

37 *V. c. 10, sec. 38 directs that in construing the above section the words "Court or Judge" shall be read for "Election Committee" (above printed in Italics).*

34 VICT. CAP. 19.

An Act to amend the Act further securing the Independence of Parliament.

[Assented to 14th April, 1871.]

FOR better securing the Independence of Parliament, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Preamble.

Sub-section 1
of Sect. 1 of 31
V., c. 25
amended.

1. The first sub-section of the first section of the Act passed in the thirty-first year of Her Majesty's reign, and intituled "An Act further securing the Independence of Parliament," is hereby so amended as to read as follows :

Offices of
profit, &c.,
under Go-
vernment of
Canada to
disqualify.

"1. No person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown to which an annual salary, or any fee, allowance or emolument or profit of any kind or amount whatever from the Crown is attached, shall be eligible as a member of the House of Commons, nor shall he sit or vote in the same, during the time he holds such office, commission or employment ;"

Exceptions.

But the sub-section so amended shall be subject to the exceptions made in the two following sub-sections of the said section.

31 VICT. CAP. 22.

An Act for continuing the Parliament of Canada, in case of the demise of the Crown.

[Assented to 22nd May, 1868.]

Preamble.

WHEREAS the peace, welfare and security of this Dominion, might be exposed to great dangers, if the Parliament of Canada should be dissolved by the demise of Our Sovereign Lady, Queen Victoria (whom God long preserve) or by the demise of any of Her Majesty's Heirs and Successors : For remedy thereof, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Parliament
not to be dis-
solved by
demise of the
Crown.

1. No Parliament of Canada, heretofore or hereafter summoned, or called by our Sovereign Lady the Queen, or Her Heirs and Successors, shall determine or be dissolved by the demise of the Crown, but such Parliament shall continue, and may meet, convene and sit, proceed and act, notwithstanding such demise of the Crown, in the same manner as if such demise had not happened.

Right to pro-
rogate, &c.,
not affected.

2. Nothing in the next preceding section shall alter or abridge the power of the Crown, to prorogue or dissolve the Parliament of Canada.

31 VICT. CAP. 2.

An Act respecting the Office of Speaker of the House of Commons of the Dominion of Canada.

[Assented to 21st December, 1867.]

HER MAJESTY, by and with the advice and consent of Preamble.
the Senate and House of Commons of Canada, enacts as follows:

1. Whenever the Speaker of the House of Commons, from illness or other cause, finds it necessary to leave the Chair during any part of the sittings of the said House on any day, he may call upon any member thereof to take the Chair and to act as Speaker during the remainder of such day, unless the Speaker himself resume the Chair before the close of the sittings for that day; and the member so called upon shall take the Chair and act as Speaker accordingly; and every Act passed, and every Order made and thing done by the said House of Commons while such member is acting as Speaker as aforesaid, shall be as valid and effectual, to all intents and purposes, as if done while the Speaker himself was presiding in the Chair.

Speaker leaving the Chair may call upon a member to act as Speaker during his absence.

31 VICT. CAP. 24.

An Act to provide for Oaths to Witnesses being administered in certain cases for the purposes of either House of Parliament.

[Assented to 22nd May, 1868.]

WHEREAS it is expedient that the Senate should have Preamble.
power to examine witnesses at the Bar on Oath; and whereas it is also expedient that evidence taken before any Select Committee of either House of Parliament on a Private Bill, should be available, if desired, before the Committee of the other House to which the same Bill is referred, and that for this purpose the Select Committees of the Senate and of the House of Commons on Private Bills, should be enabled to administer an oath to the witnesses examined before them: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Examination
on oath at Bar
of Senate.

1. Witnesses may be examined upon oath at the Bar of the Senate, and for that purpose the Clerk of the House may administer an oath to any such witness.

And before
Select Com-
mittees on
private Bills
in Senate.

2. Any Select Committee of the Senate to which any Private Bill has been referred by that House may examine witnesses upon oath, upon matters relating to such Bill, and for that purpose the Chairman or any member of such Committee may administer an oath to any such witness.

Or in the
House of Com-
mons.

3. Any Select Committee of the House of Commons to which any Private Bill has been referred by that House, may examine witnesses upon oath, upon matters relating to such Bill, and for that purpose the Chairman or any Member of such Committee may administer an oath to any such witness.

Perjury.

4. Any person examined as aforesaid, who shall wilfully give false evidence, shall be liable to the penalties of perjury.

31 VICT. CAP. 3.

An Act relating to the Indemnity to Members and the Salaries of the Speakers, of both Houses of Parliament.

[Assented to 21st December, 1867.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Allowance to
members of
either House
for attendance
at any session.

1. *By 36 V., c. 31, sec. 13, the first section of this Act was repealed and the following substituted.*

"In each session of Parliament there shall be allowed to each Member of the Senate and House of Commons, attending at such session, ten dollars for each day's attendance, if the session do not extend beyond thirty days ; and if the session extends beyond thirty days, then there shall be payable to each Member of the Senate and House of Commons attending at such session a sessional allowance of one thousand dollars, and no more."

Deductions for
non-atten-
dance.

2. A deduction at the rate of five dollars per day shall be made, from the said sessional allowance, for every day on which the member does not attend a sitting of the House of which he is a member, or of some committee thereof, provided the House sits on such day ; but each day during the session, after the first on which the member attends as aforesaid, on which there has been no sitting of such House, in consequence of its having

What shall
be reckoned as
days of atten-
dance.

adjourned over such day, or on which the member was in the place where the session was held, but was prevented by sickness from attending any such sitting as aforesaid, shall be reckoned as a day of attendance at such session, for the purposes of this Act; and a member shall, for the purposes aforesaid, be held to be at the place where the session is held, whenever he is within ten miles of such place.

The deduction of five dollars was increased to eight dollars by 36 V., c. 31, sec. 13.

3. A member shall not be entitled to the said sessional allowance for less than thirty-one days' attendance reckoned as aforesaid, but his allowance for any less number of days shall be *six dollars* for each day's attendance. Allowance for less than 31 days' attendance.

The words "ten dollars" are substituted for "six dollars" by 36 V., c. 31, sec. 13.

4. The said compensation may be paid from time to time as the member becomes entitled to it, to the extent of four dollars for each day's attendance as aforesaid, but the remainder shall be retained by the clerk of the proper House, until the close of the session, when the final payment shall be made. How the indemnity shall be payable.

5. If any person is, from any cause a member of either House for a part only of any session, then provided he is a member for upwards of thirty days during such session, he shall be entitled to the sessional allowance herein before mentioned, subject to the deduction aforesaid for non-attendance as a member, and also to a deduction of *five dollars* for each day of such session before he was elected or after he ceased to be a member; but if he is a member for only thirty days or less, then he shall be entitled only to *six dollars* for each day's attendance at such session, whatever be the length thereof. Case of a member for part of a session provided for.

The deduction of five dollars was increased to eight dollars, and the words "ten dollars" were substituted for the words "six dollars" by 36 V., c. 31, sec. 13.

6. There shall be also allowed to each member of the Senate and of the House of Commons ten cents for each mile of the distance between the place of residence of such member and the place at which the session is held, reckoning such distance going and coming, according to the nearest mail route, which distance shall be determined and certified by the Speaker of the Senate or House of Commons (as the case may be). Allowance for mileage.

7. The sum due to each Member at the close of any Session shall be calculated and paid to him by the *Clerk of the House of which he is a Member*, on his making and signing, before the Clerk or Accountant or Assistant Accountant of the House, or Final payment at the close of Session.

Declaration to a Justice of the Peace, a solemn declaration *to be kept by the Clerk*, stating the number of days' attendance and the number of miles of distance according to the nearest mail route as determined and certified by the Speaker, for which such Member is entitled to the said allowance, and the amount of such allowance after deducting the number of days (if any) which are to be deducted under any preceding section of this Act; and such declaration may be in the form A hereunto annexed, and shall have the same effect as an affidavit in the same form.

So much of this section as relates to the Clerk of the House of Commons is repealed by 31 V., c. 27, sec. 12, and the Accountant is directed to perform the duties prescribed for the said Clerk in this section.

Grant for paying the allowance.

8. There is hereby granted to Her Majesty out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada an annual sum, sufficient to enable Her Majesty to advance to the Clerk of the Senate and the *Clerk of the House of Commons* respectively, such sums as are required to pay the estimated amount of the sessional allowance hereinbefore mentioned.

For "Clerk of House of Commons" read "Minister of Finance." See 31 V., c. 27, sec. 12.

Clerks to account for moneys received by them.

9. The Clerk of the Senate and the *Clerk of the House of Commons* shall respectively account for all moneys received by them under this Act, in the same manner as for moneys advanced to them for the contingent expenses of the said Senate and House of Commons, and they may, respectively, apply any surplus thereof to the payment of such contingent expenses, and may supply any deficiency of such estimated amount out of any moneys in their hands respectively applicable to the payment of such contingent expenses.

So much of this section as relates to the Clerk of the House of Commons is repealed by 31 V., c. 27, sec. 12.

10. *This section was temporary and only related to the Session of Parliament during which this Act was passed.*

11. *This section was temporary and only related to the Session in which this Act was passed.*

Salaries of Speakers.

12. "The following salaries shall be payable to the officers herein-after mentioned respectively :

To the Speaker of the Senate the sum of four thousand dollars per annum ;

To the Speaker of the House of Commons the sum of four thousand dollars per annum :—"

The 12th Section was repealed by 36 V., c. 31, sec. 14, and the above section substituted for it: And it was enacted also that the said section so amended should take effect from the first day of January, 1873.

13. This Act may be cited as the “The Members’ Indemnity Short Title. Act.”

SCHEDULE FORM A.

I, A. B., One of the members of the Senate (or House of Commons), solemnly declare, that I reside at _____ in _____ which is distant by the nearest mail route _____ miles, as determined by the Speaker of this House, from _____ where the Session of Parliament of Canada, which began on the _____ day of _____ one thousand eight hundred and _____ was held—

That the first day during the said session on which I was present, at _____ where the said session was held, was the _____ day of _____ one thousand eight hundred and _____

That on the said day and on each day of the said session, after the said day on which there was a sitting of the said House, I attended such sitting, or a sitting of some Committee thereof* except only on _____ days** on _____ of which I was prevented by sickness from attending as aforesaid, though I was then present at _____ ***

(Signature,) A. B.

Declared before me at _____ this _____ day of _____ one thousand eight hundred and _____ C. D.,

Clerk (or Accountant or Assistant Accountant) of the Senate (or House of Commons) or Justice of the Peace for the _____ of _____ (as the case may be.)

If the member attended a sitting of the House or of some Committee on every sitting day after the first on which he so attended, omit the words from* _____ to***;—and if his non-attendance was not on any day occasioned by sickness, omit the words from** _____ to***

If the person making the declaration became or ceased to be a member after the commencement of the session, vary the form, so as to state correctly the facts upon which the sum due to the member is to be calculated.

31 VICT. CAP. 27.

An Act respecting the Internal Economy of the House of Commons, and for other purposes.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Speaker and
four other
Commissioners
to carry this
Act into effect.

How appoint-
ed, &c.

Quorum.

1. The Speaker of the House of Commons for the time being, and any four Members of Her Majesty's Privy Council for Canada, for the time being, who may be appointed by the Governor in Council as Commissioners under this Act (they and each of them being also members of the House of Commons), and the names and offices of whom and their appointment as Commissioners shall be communicated by message from the Governor to the House of Commons in the first week of each Session of Parliament, shall be, and they are hereby nominated, constituted and appointed Commissioners for the purposes of this Act, and any three of the said Commissioners whereof the Speaker of the House of Commons for the time being shall be one, shall be and they are hereby authorized to carry this Act into execution.

Estimate to be
made by the
Clerk.

And by the
Sergeant-at-
Arms.

To be submit-
ted to the
Speaker.

Speaker to pre-
pare an Esti-
mate.

Estimates to
be submitted
to Minister of
Finance, &c.

2. An estimate shall annually be prepared by the Clerk of the House of Commons of the sums which will probably be required to be provided by Parliament for the payment of the indemnity and mileage of members, and of salaries, allowances, and contingent expenses of the House, and of the several Officers and Clerks thereof under his direction, and of the Stationery of the House, during the year commencing on the first day of July in each year ; and an Estimate shall annually be prepared by the Sergeant at Arms of the House of Commons of the sums which will probably be required to be provided by Parliament for the payment of salaries or allowances of the Messengers, Door-keepers and Servants of the House under his direction, and of the contingent expenses under his direction, during the year as above mentioned ; and such estimates shall be submitted to the Speaker for his approval and shall be subject to such approval and to such alterations as the Speaker shall consider proper ; and the Speaker shall thereupon prepare an estimate of the sums requisite for the several purposes aforesaid, and shall sign the same, and such several estimates of the Clerk, Sergeant-at-Arms and Speaker, shall be transmitted by the Speaker to the Minister of Finance for his approval, and shall be laid severally before the House of Commons with the other estimates for the year.

3. An estimate shall also annually be prepared by an officer acting for that purpose under the sanction of the Senate and House of Commons, of the sums which will probably be required to be provided by Parliament for the Printing services during the year commencing on the first of July in each year, which shall be transmitted to the Minister of Finance for his approval and shall be laid before Parliament with the other estimates for the year.

Estimate for the joint printing of the Senate and House of Commons.

4. All sums of money voted by Parliament upon such estimates or payable to Members of the House of Commons, under *The Members' Indemnity Act*, shall be paid over to and held by the Minister of Finance subject to the order of the said Commissioners or any three of them, of whom the Speaker shall be one, and shall be paid or transferred to them or their order at any time, and from time to time, in such sums as they may deem requisite.

Sums voted or payable under Members' Indemnity Act, to be subject to order of Commissioners.

The Members' Indemnity Act is the Act last preceding this Act.

5. All the sums mentioned in the next preceding section, shall be paid according to the directions of the Commissioners from time to time, and the Speaker shall appoint an officer for that purpose, who shall be called the Accountant of the House of Commons, and shall take from him such security for the faithful discharge of his duties as the Commissioners shall think fit, and an account shall be opened in one of the banks of this Dominion, in the name of the said Accountant; And the Commissioners hereinbefore mentioned, shall from time to time, pay or transfer such sums as they shall deem necessary for that purpose, to the credit of the said Accountant, by an order signed by the Speaker and two other of the said Commissioners; and in case of the death or removal from office of any such Accountant, the moneys standing to his credit in the account aforesaid, shall be forthwith paid by the said bank to the said Commissioners.

Accountant to be appointed. To give security; his Account.

Advance of money to Accountant, &c.

In case of death or removal of Accountant.

6. The sums voted by Parliament for the Printing of Parliament shall be paid over to and held by the Minister of Finance, for Printing Services; and for these services an account shall be opened in one of the Banks of Canada, and in such name as the Senate and House of Commons may direct; and such sums as shall be deemed necessary shall be paid or transferred to the name of the person so selected as the work progresses, to be accounted for in the Printing account annual balance sheet.

As to moneys voted for Printing of Parliament.

7. In case the sums voted by Parliament shall in any year be more than sufficient to pay and discharge all charges thereon, the Commissioners shall, within six weeks after the end of the Session, after retaining in their hands a sum sufficient to answer all demands in respect of the same, which may be likely

Surplus moneys to be repaid to the Receiver General.

to arise before the beginning of the then next Session, pay the surplus to the Receiver-General, to the credit of the Consolidated Revenue Fund of Canada.

In case of dissolution, Speaker to act until another is chosen.

Case of death of Speaker, &c. provided for.

8. For the purposes of this Act, the person who shall fill the office of Speaker at the time of any dissolution of Parliament, shall be deemed to be the Speaker until a Speaker shall be chosen by the new Parliament; and in the event of the death, or disability, or absence from Canada of the Speaker, during any dissolution or prorogation of Parliament, any three of the Commissioners may execute any of the purposes of this Act.

Speaker may suspend or remove, as the case may be, any Clerk, Officer, or Messenger, guilty of misconduct.

9. If any complaint or representation shall at any time be made to the Speaker for the time being, of the misconduct or unfitness of any Clerk, Officer, Messenger or other person attendant on the House of Commons, now or hereafter to be appointed, it shall be lawful for the said Speaker to cause an enquiry to be made into the conduct or fitness of such person; and if thereupon it shall appear to the Speaker that such person has been guilty of misconduct, or is unfit to hold his situation, the Speaker may, if such Clerk, Officer, Messenger or other person has been appointed by the Crown, suspend him and report such suspension to the Governor, and if he has not been appointed by the Crown then the Speaker may suspend or remove such person, as the case may be, and such person shall be so suspended or removed, as the case may be, accordingly.

Clerk and other officers to take Oath of Allegiance.

10. Immediately after the passing of this Act, the Clerk of the House of Commons shall take and subscribe before the Speaker the oath of allegiance, and all other Officers, Clerks and Messengers of the House of Commons shall take and subscribe before the Clerk of the House of Commons, the oath of Allegiance; and every Officer, Clerk or Messenger who shall hereafter be appointed, shall, before entering upon the duties of his office, take and subscribe the same oath; and the Clerk of the House of Commons shall keep a register of all such oaths.

Provisions respecting the fiscal years 1867-8 and 1868-9.

11. For the purposes of this Act, all sums payable to Members of the House of Commons under the Members' Indemnity Act, and all sums voted and appropriated in the present Session of Parliament, for payment of salaries, allowances, contingent expenses, and stationery of the House of Commons for the fiscal year ending on the thirtieth day of June, one thousand eight hundred and sixty-eight, and for the fiscal year ended on the thirtieth day of June, one thousand eight hundred and sixty-nine, shall be deemed and taken as having been estimated under the second section of this Act, and shall be subject to the several provisions of this Act in respect of the mode of payment thereof respectively, and of the disposal of any surplus thereof.

12. All sums of money which under the eighth section of The Members' Indemnity Act, might heretofore have been advanced to the Clerk of the House of Commons, shall after the passing of this Act, be paid over to the Minister of Finance for the purposes of this Act and shall be subject to the provisions thereof: so much of the seventh or of the ninth section of the said Act, as relates to the Clerk of the House of Commons shall be repealed after the passing of this Act, and the Accountant shall thereafter perform the duties assigned to the Clerk by the said seventh section.

Members' Indemnity Act amended, so as to agree with this Act.

See pages 131, 132 ante.

Political Rights.

C. S. CAN. CAP. 8.

An Act respecting the Naturalization of Aliens.

The whole of this Statute is repealed by 31 V. c. 66, sec. 14 (Dom.), except section 9, which is as follows:

9. Every Alien shall have the same capacity to take, hold, possess, enjoy, claim, recover, convey, devise, impart and transmit Real Estate in all parts of this Province, as Natural-born or Naturalized Subjects of Her Majesty, in the same parts thereof respectively:

Alien to have the same powers as to Real Estate as Subjects of Her Majesty.

2. Provided always, that nothing herein contained shall alter, impair or affect or be construed to alter, impair or effect in any manner or way whatsoever, any right or title legally vested in or acquired by any person or persons whomsoever before the twenty-third day of November, 1849.

Proviso.

29 VICT. CAP. 16.

An Act to enable aliens to transmit and take real property in this Province by descent.

[Assented to 18th September, 1865.]

WHEREAS it is desirable that aliens should have the right to transmit and to take real estate by descent: Therefore, Preamble.

Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Rights of
aliens with res-
pect to the
transmission
of real estate
by descent to
be the same as
those of nat-
ural born sub-
jects.

12 V. c. 197.

Existing rights
saved.

1. The real estate in any part of this Province of any alien dying intestate, shall descend and be transmitted as if the same had been the real estate of a natural born or naturalized subject of Her Majesty, and every alien shall have the same capacity to take real estate in any part of this Province by descent, as natural born and naturalized subjects of Her Majesty, in the same parts thereof respectively ; and this provision shall be construed and have effect as if it had been contained in the Act passed in the twelfth year of Her Majesty's Reign, intitled : *An Act to repeal a certain Act therein mentioned, and to make better provisions for the naturalization of aliens* ; Provided always, that nothing herein contained shall alter, impair or affect in any manner or way whatsoever, any right or title legally vested in or acquired by any person or persons whomsoever, before the twenty-third day of November, in the year one thousand eight hundred and forty-nine.

31 VICT., CAP. 66.

An Act respecting Aliens and Naturalization.

[Assented to 22nd May, 1868.]

Preamble.

WHEREAS the laws in force in the Provinces of Ontario and Quebec, in the Province of Nova Scotia, and in the Province of New Brunswick, providing for the naturalization of Aliens are various, and are local and limited in their effects ; and whereas it is expedient that one uniform provision should be made for Canada with respect to the naturalization of Aliens, saving always the rights, titles and claims of all persons, according to the laws of each Province, at the time of the passing of this Act ; and whereas it is also expedient to provide that the benefits heretofore obtained by any person by naturalization in any part of Canada shall henceforth extend to and be available for such person in every other part of Canada : Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

LOCALLY NATURALIZED SUBJECTS OF HER MAJESTY.

Provincial
naturalization
extended to
the Dominion.

1. Each and every person who, being by birth an Alien, had, on or before the passing of this Act, become entitled to the privileges of British birth, within any part of Canada, by virtue of any general or special Act of Naturalization in force in such part of Canada, shall hereafter be entitled to all the privi-

leges by this Act conferred on persons naturalized under this Act.

NATURALIZATION OF ALIENS.

2. Every Alien-born woman married to a natural-born British subject, or person naturalized under the authority of this Act or of any law either of the Province of Nova Scotia, or of the Province of New Brunswick, or of the late Province of Canada, or of the late Province of Upper Canada, or of the late Province of Lower Canada, shall be deemed to be herself naturalized, and shall have all the rights and privileges of a natural-born British subject.

Alien-born woman naturalized by marriage with subject.

3. Every Alien (not being a woman married to a natural-born or naturalized British subject) now residing in, or who shall hereafter come to reside in any part of this Dominion, with intent to settle therein, and who after a continued residence therein for a period of three years or upwards, has taken the oaths or affirmations of residence and allegiance, and procured the same to be filed of record as hereinafter prescribed, so as to entitle him or her to a Certificate of Naturalization as hereinafter provided, shall thenceforth enjoy and may transmit all the rights and capacities which a natural-born subject of Her Majesty can enjoy or transmit.

Other aliens may become naturalized by residence, &c.

4. Every such Alien (not being a woman married to a natural-born or naturalized British subject) in order to become entitled to the benefit of this Act, shall take and subscribe the following Oath of Residence, or being one of those persons who are allowed by the Laws of the Province in which he or she then is, to affirm in judicial cases, shall make affirmation to the same effect, that is to say :

Oath of residence to be taken for that purpose.

Oath of Residence.

"I, A. B., do swear (or, being one of the persons allowed by Form.
"Law to affirm in judicial cases, do affirm) that I have resided
"three years in this Dominion, with intent to settle therein,
"without having been during that time a stated resident in
"any foreign country. So help me God."

2. And every such Alien, in order to become entitled to the benefit of this Act, shall also take and subscribe the following Oath of Allegiance, (or being one of those persons who are allowed, by the Laws of the Province in which he or she then is, to affirm in judicial cases, shall make affirmation to the same effect,) that is to say :

And also oath of allegiance.

Oath of Allegiance.

"I, A. B., do sincerely promise and swear (or, being one of Form.
"the persons allowed by Law to affirm in judicial cases, do

“affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Dominion of Canada, dependent on and belonging to the said United Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies and attempts whatever which shall be made against Her Person, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation. So help me God.”

Before whom
oath or affir-
mation shall
be taken.

Certificate to
be granted,

What it shall
state.

3. And every such oath or affirmation shall be taken and subscribed by such Alien, and may be administered to him or her by any Judge of any Court of Record in that Province of Canada in which such Alien resides, or by any person authorised to administer oaths in any of the Courts hereinafter mentioned, or by any Commissioner to be appointed by the Governor for that purpose, or by any Justice of the Peace of the County or District within which such Alien resides; which said Judge, Commissioner, or Justice of the Peace, on being satisfied by evidence produced by such Alien, that he or she has been a resident of Canada, for a continuous period of three years or upwards, and is a person of good character, shall grant to such Alien a Certificate, setting forth that such Alien has taken and subscribed the said oath or affirmation, and that such Judge, Commissioner or Justice of the Peace, has reason to believe that such Alien has been so resident within Canada for a period of three years or upwards, that he or she is a person of good character, and that there exists to the knowledge of such Judge, Commissioner or Justice of the Peace, no reason why such Alien should not be granted all the rights and capacities of a Natural-born British subject.

Certificate to
be presented
and read in
court, and
afterwards
filed of record.

Effect of such
filing, if no ob-
jection be
made.

5. Such Certificate shall be presented to the Court of *Quarter Sessions of the Peace*, or the *Recorder's Court* of the County or City within the jurisdiction of which the Alien resides in Ontario, or to the Circuit Court in and for the Circuit within which he or she resides in Quebec, or to the Supreme Court if he or she resides in Nova Scotia, or to the Supreme Court of Judicature of New Brunswick, or County Court of the County in which he or she resides, if he or she resides in New Brunswick, in open Court, on the first day of of some general sitting of such Court, and thereupon such Court shall cause the same to be openly read in Court; And if during such general sitting the facts mentioned in such Certificate are not controverted, or any other valid objection made to the Naturalization of such Alien, such Court, on the last day of such general sitting, shall direct that such Certificate be filed of record in the said Court, and

thereupon such Alien shall be thereby admitted and confirmed in all the rights and privileges of British birth, to all intents whatever, as if he or she had been born within Canada.

In Ontario, by 32 V., c. 6, sec. 16 (Ont.), all matters heretofore done in the Recorder's Courts are to be done in the Courts of General Sessions. By sec. 7 of the same Act the Courts formerly known as the Courts of Quarter Sessions of the Peace, are now called the Courts of General Sessions of the Peace.

6. Every such person shall be then entitled to receive a Certificate of Naturalization under the seal of such Court, and the signature of the Clerk thereof, that he or she hath complied with the several requirements of this Act; which Certificate of Naturalization may be in the following form, or to the like effect, that is to say :

Certificate of naturalization to be granted under seal of Court.

Dominion of Canada,
Province of
Circuit, (or County or City) of
to wit :

In the Court of

Whereas A. B., of &c. (*describing him or her as formerly of such a place, in such a Foreign Country, and now of such a place in Canada, and adding his or her addition*), hath complied with the several requirements of the *Act respecting Aliens and Naturalization*, and the certificate thereof has been read in open Court, and thereupon, by order of the said Court, duly filed of record in the same, pursuant to the said Act; These are therefore to certify to all whom it may concern, that under and by virtue of the said Act, the said A. B. hath obtained all the rights and capacities of a Natural-born British Subject, to have, hold, possess and enjoy the same upon, from, and after the day of , (*the day of filing the Certificate of Residence*) in the year of our Lord, one thousand eight hundred and ; and this Certificate thereof is hereby granted to the said A. B., according to the form of the said law.

Form of such certificate.

Given under my Hand and the Seal of the said Court, this
day of , in the year of our Lord, one thousand
eight hundred and

(Signature,) C. D.

Clerk of the Peace,
(or Clerk of the Recorder's Court, or Clerk of the Circuit Court, or Clerk of the Supreme Court, as the case may be.)

7. A copy of such Certificate of Naturalization may, at the option of the party, be registered in the Registry Office of any County or District or Registration Division within Canada, and

Copy of certificate may be registered

a certified copy of such Registry shall be sufficient evidence of such Naturalization in all Courts and places whatsoever.

Aliens entitled to be naturalized under former Acts may take oaths and obtain certificates under this Act.

8. Any Alien entitled, at the time of the passing of this Act, to be naturalized under the provisions of any of the Acts mentioned in the twelfth and fourteenth sections of this Act, may take the oaths or affirmations of Residence and of Allegiance, and obtain Certificates as aforesaid, in the same manner as Aliens entitled to be naturalized under the provisions of the third section of this Act, and with the same effect, to all intents and purposes :

2. *This sub-section relates to Nova Scotia only.*

Fees to be taken under this Act.

9. The Clerk of the Peace or *Clerk of the Recorder's Court*, or Clerk of the Circuit Court, or Clerk of the Supreme Court, shall, for reading and filing the Certificate of Residence, and preparing and issuing the Certificate of Naturalization under the Seal of the Court, be entitled to receive from such person, the sum of twenty-five cents, and no more ; And the Registrar shall, for recording the said last mentioned Certificate, be entitled to receive from such person, the sum of fifty cents, and a further sum of twenty-five cents, for every search and certified copy of the same, and no more.

Privileges of naturalization under this Act to be subject to provisions of the Imperial Act, 10, 11, V. c. 83.

10. The privileges of Naturalization imparted by this Act, to the several classes of persons herein mentioned, are imparted to such persons respectively on the terms and conditions herein set forth, and are to be by such persons exercised and enjoyed, according to the true intent and meaning of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled ; *An Act for the Naturalization of Aliens.*

The Imperial Act referred to was repealed by a later Imperial Act, 33 V., c. 14. (The Naturalization Act, 1870).

Act of U. C. 54 G. 3, c. 9, not affected.

11. Nothing in this Act contained shall repeal or in any manner affect the Act of the Legislature of Upper Canada, passed in the fifty-fourth year of the Reign of His late Majesty King George the Third, intituled : *An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty*, or any proceedings had under the said Act.

This Act not to affect 4 & 5 V. c. 7, or sections 1, 2 or 3 of 12 V. c. 197, or any rights acquired under the same.

12. Nor shall any thing in this Act contained repeal or in any manner affect the Act passed in the session held in the fourth and fifth years of Her Majesty's reign, chapter seven, intituled : *An Act to secure to and confer upon certain inhabitants of this Province, the civil and political rights of Natural-born British Subjects*, or the first, second or third section of the Act passed in the twelfth year of Her Majesty's reign, chapter one hundred

and ninety-seven, intituled: *An Act to repeal a certain Act therein mentioned, and to make better provision for the Naturalization of Aliens*,—or impair or affect the naturalization of any person naturalized under the said Acts, or either of them, or any rights acquired by such person or by any other party by virtue of such naturalization, all which shall remain valid and be possessed and enjoyed by such person or party respectively.

PENALTY FOR FALSE SWEARING.

13. Any person wilfully swearing falsely, or making any false affirmation under this Act, shall be deemed guilty of wilful and corrupt perjury, and shall, on conviction, in addition to any other punishment authorized by Law, forfeit all the privileges or advantages which he or she would otherwise, by making such oath or affirmation, have been entitled to under this Act, but the rights of others in respect to estates derived from or held under him or her, shall not thereby be prejudiced, excepting always such others as shall have been cognizant of the perjury at the time the title by which they claim to hold under him or her was created.

Penalty on persons swearing or affirming falsely.

14. The following Acts are hereby repealed, that is to say : The Act *respecting the Naturalization of Aliens*, forming the eighth chapter of the Consolidated Statutes of Canada, save and except the ninth section thereof, the thirty-fourth chapter of the Revised Statutes of Nova Scotia, third series, *Of the privileges and Naturalization of Aliens*, save and except the first, second and third sections thereof; the Act of the Legislature of New Brunswick, passed in the twenty-fourth year of Her Majesty's reign, chapter fifty-four, intituled: *An Act relating to the Naturalization of Aliens*; and the Act of the same Legislature passed in the twenty-eighth year of Her Majesty's reign, chapter five, intituled; *An Act to amend the Act relating to the Naturalization of Aliens*; but nothing in this section contained shall impair or affect the naturalization of any person naturalized under the said Acts, or either of them, or any rights acquired by such person, or by any other party, by virtue of such naturalization, all which shall remain valid, and be possessed and enjoyed by such person or party respectively.

Con. Stat. Can. c. 8, except sec. 9:—chapter 34 of R. S. N. S. except sections 1, 2 and 3; acts of N. B. 24 V. c. 54, and 28 V. c. 5, repealed.

Saving the rights of persons naturalized under the same.

34 VICT., CAP. 22.

An Act to amend the Act 31st Victoria, chapter 66, respecting Aliens and Naturalization.

[Assented to 14th April, 1871.]

IN amendment of the Act passed in the thirty-first year of Her Majesty's Reign, Chaptered sixty-six, and intituled: *Preamble, 31 V., c. 66.*

“An Act respecting Aliens and Naturalization,” Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Aliens having taken certain oaths before 1 Jan., 1868, naturalized.

Evidence thereof.

May take another oath.

1. Every person who, being by birth an Alien, did, prior to the first day of January, 1868, take the oaths of residence and allegiance required by the Naturalization Laws then in force in that one of the Provinces now forming the Dominion of Canada, in which he then resided, shall be admitted to all the rights and privileges of a natural-born British subject conferred upon naturalized persons by the Act of Parliament of Canada respecting Aliens and Naturalization, passed in the thirty-first year of Her Majesty's reign, and the certificate of the Judge, Magistrate, or other person before whom such oaths were taken and subscribed, shall be evidence of his having taken them; or he may take and subscribe the following oath before some judge, justice, or person authorized to administer the oaths of residence and allegiance under the Act hereby amended, in the County or District in which he resides.

Form.

“I, A. B., do (swear *or* affirm) that, on or about the day of _____, at _____ in the (County) of _____ in the Province of _____ (or in the late Province of Canada), I did take and subscribe before a (*Judge, Magistrate, or other proper person, naming him*), the (oaths) of residence and allegiance required by the Laws respecting the Naturalization of Aliens then in force in the said Province; So help me God.”

Aliens residing in any Province now in Canada, before 1 July, 1867, naturalized.

Proviso: oaths to be taken.

2. All Aliens who had their settled place of abode in either of the late Provinces of Upper Canada or Lower Canada, or in Nova Scotia, or New Brunswick, on or before the first day of July, A.D. 1867, and who are still residents in the Province of Ontario or of Quebec, or in either of the Provinces of Nova Scotia or New Brunswick, shall be deemed, adjudged and taken to be, and to have been entitled to all the privileges of British birth, as if they had been natural born subjects of Her Majesty, subject to the following provision, that is to say:—That no such person (being a male), shall be entitled to the benefit of this Act, unless nor until he shall take the oath or affirmation of allegiance in the form prescribed by the Act hereby amended, together with the oath of residence hereinafter prescribed, before some Justice of the Peace, or other person authorized to administer oaths under the said Act.

Oath of residence.

2. Such Alien shall take and subscribe the following oath of residence, that is to say:—

“I, A. B., do swear (*or* affirm) that I had a settled place of abode in the Dominion of Canada on the first day of July 1867, and resided therein, with intent to settle therein, and have continuously since resided therein: So help me God.”

3. Every affidavit or affirmation taken under this Act shall be filed, if the person making it resides in the Province of Ontario, with the Clerk of the Peace of the County in which he resides,—if he resides in the Province of Quebec with the Clerk of the Circuit Court of the Circuit within which he resides,—if he resides in Nova Scotia, with the Clerk of the Supreme Court,—and if he resides in New Brunswick, with the Clerk of the Superior Court of Judicature; and such clerk shall file the same of record in his Court, and upon its being so filed, the person making it shall be entitled to the benefit of this Act and the privileges of British birth, and shall also, upon payment of a fee of twenty-five cents to such clerk, be entitled to a certificate from him, in the form or to the effect prescribed in section six of the Act hereby amended, and the production of such certificate shall be *prima facie* evidence of his naturalization under this Act, and that he is entitled to and enjoys all the rights and privileges of a British subject.

Oaths under this Act: how to be filed.

Certificate, and its effect.

4. In this Act the word “oath” includes an “affirmation” in every case where the person taking it is one of those who are allowed by the Laws of the Province in which he resides to affirm in judicial cases, and the forms herein given shall in such cases be worded accordingly.

Interpretation clause.

24 VICT. CAP. 44.

An Act respecting Forfeited Estates in Upper Canada.

[Assented to 18th May, 1861.]

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, declares and enacts as follows:

Preamble

1. It is hereby declared to have been meant and intended by the Act of the Parliament of the late Province of Upper Canada, passed in the fifty-fourth year of the reign of His late Majesty, King George the Third, and intituled: *An Act to declare certain persons therein described Aliens, and to vest their Estates in His Majesty*, that no person found to come within its provisions could have held or transmitted, or could or can hold or transmit lands in Upper Canada, by will or otherwise.

Intent of Act of U. C. 54 G. 3, c. 9, declared.

2. The Acts of the Commissioners appointed under and by virtue of the said recited Act, and of the Commissioners appointed under and by virtue of the other Act of the said late Parliament of Upper Canada, passed in the fifty-ninth year of the reign of His late Majesty, King George the Third, chapter

Acts of Commissioners under that Act and 59 G. 3, c. 12, declared valid.

twelve, and intituled: *An Act for vesting in Commissioners the Estates of certain Traitors, and also the Estates of persons declared Aliens, by an Act passed in the fifty-fourth year of His Majesty's Reign, intituled: "An Act to declare certain persons therein described Aliens, and to vest their Estates in His Majesty," and for applying the proceeds thereof towards compensating the losses which His Majesty's subjects have sustained in consequence of the late War, and for ascertaining and satisfying the lawful debts and claims thereupon, are hereby declared to have been and to be good and valid, notwithstanding any defect or supposed defect in any inquisition made by them, or any of them, or any want of authority in the said Commissioners, or any or either of them, to inquire of lands not in the district for which any such Commissioner or Commissioners was or were appointed.*

Titles to lands sold by the Crown under the said Acts, declared valid.

3. All titles to land acquired by virtue of sales or grants made, or purporting to have been made, by or under the authority of the Crown, as of lands of which the Crown had become seized under and in pursuance of the provisions of the said recited Acts, are hereby declared to have been and to be good and valid in law and equity, to all intents and purposes, and the Crown shall be held to have been legally seized of such lands, under the said Acts, at the time of such sales or grants, notwithstanding any defect or supposed defect in the carrying out of the provisions of the said recited Acts.

31 VICT. CAP. 42.

An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Department constituted.

1. There shall be a department to be called "The Department of the Secretary of State of Canada," over which the Secretary of State of Canada for the time being, appointed by the Governor General by commission under the Great Seal, shall preside ; and the said Secretary of State shall have the management and direction of the Department, and shall hold office during pleasure.

Tenure of office.

Under Secretary and officers.

2. The Governor General may also appoint an "Under Secretary of State," and such other officers as may be necessary

for the proper conduct of the business of the said Department, all of whom shall hold office during pleasure.

3. It shall be the duty of the Secretary of State to have charge of the State correspondence, to keep all State records and papers not specially transferred to other Departments, and to perform such other duties as shall from time to time be assigned to him by the Governor General in Council. General duties of Secretary.

4. The Secretary of State shall be the Registrar General of Canada, and shall as such register all Instruments of Summons, Commissions, Letters Patent, Writs, and other Instruments and Documents issued under the Great Seal. To be Registrar General.

By 36 V., c. 4, the "Minister of the Interior" is appointed Superintendent of Indian affairs and is to have the control and management of the lands and property of the Indians in Canada—and therefore repeals section 5, which gave that power to the Secretary of State.

5. *Repealed, as above stated, 36 V., c. 4.*

6. All lands reserved for Indians or for any tribe, band or body of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as before the passing of this Act, but subject to its provisions; and no such lands shall be sold, alienated or leased until they have been released or surrendered to the Crown for the purposes of this Act. Indian Lands, to be under this Act. Alienation on certain conditions only.

7. All moneys or securities of any kind applicable to the support or benefit of the Indians or any tribe, band or body of Indians, and all moneys accrued or hereafter to accrue from the sale of any lands or of any timber on any lands reserved or held in trust as aforesaid, shall, subject to the provisions of this Act, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with before the passing of this Act. Moneys, securities, timber, &c., applicable to Indians, to be under this Act.

8. No release or surrender of lands reserved for the use of the Indians or of any tribe, band or body of Indians, or of any individual Indian, shall be valid or binding, except on the following conditions: Conditions on which only Indian lands may be surrendered, &c.

1. Such release or surrender shall be assented to by the chief, or if there be more than one chief, by a majority of the chiefs of the tribe, band or body of Indians, assembled at a meeting or council of the tribe, band or body summoned for that purpose according to their rules and entitled under this Act to vote thereat, and held in the presence of the *Secretary of State* or of an officer duly authorized to attend such council by the Governor in Council or by the *Secretary of State*: Provided Consent of the chief or chiefs of the tribe. Provide: who may vote.

that no Chief or Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near the lands in question ;

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

Certificate of
assent to be
forwarded to
Secretary of
State.

2. The fact that such release or surrender has been assented to by the chief of such tribe, or if more than one, by a majority of the chiefs entitled to vote at such council or meeting, shall be certified on oath before some Judge of a Superior, County or District Court, by the officer authorized by the *Secretary of State* to attend such council or meeting, and by some one of the chiefs present thereat and entitled to vote, and when so certified as aforesaid shall be transmitted to the *Secretary of State* by such officer, and shall be submitted to the Governor in Council for acceptance or refusal.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

Penalty for
introducing
liquor at any
meeting for
such assent.

9. It shall not be lawful to introduce at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of lands, any strong or intoxicating liquors of any kind ; and any person who shall introduce at such meeting, and any agent or officer employed by the *Secretary of State*, or by the Governor in Council, who shall introduce, allow or countenance by his presence the use of such liquors a week before, at, or a week after, any such council or meeting, shall forfeit two hundred dollars, recoverable by action in any of the Superior Courts of Law, one half of which penalty shall go to the informer.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

Any surrender
otherwise in-
valid, not here-
by confirmed.

10. Nothing in this Act shall confirm any release or surrender which would have been invalid if this Act had not been passed ; and no release or surrender of any such lands to any party other than the Crown, shall be valid.

Governor in
Council to
direct the ap-
plication of In-
dian moneys.

11. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom the moneys arising from sales of Indian Lands, and from the property held or to be held in trust for the Indians, or from any timber thereon, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians may be entitled shall be made or given, and may provide for the general management of such lands, moneys and property, and direct what percentage or proportion thereof shall be set apart from time to time, to cover the cost of and attendant upon such management under the provisions of this Act, and for the construction or repair of roads

passing through such lands, and by way of contribution to schools frequented by such Indians.

12. *This Section was repealed by 37 V. c. 21 sec. 1. It related to penalty for giving and selling liquor to Indians.*

13. No pawn taken of any Indian for any spirituous liquor, shall be retained by the person to whom such pawn is delivered, but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian who has deposited the same, before any Court of competent jurisdiction. Pawns not to be taken from Indians.

14. No presents given to Indians nor any property purchased or acquired with or by means of any annuities granted to Indians, or any part thereof, or otherwise howsoever, and in the possession of any tribe, band or body of Indians or of any Indian of any such tribe, band or body, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever. Presents, &c., not liable for debts.

By 37 V. c. 21, sec. 2, the following clause is to be taken and read as part of this section.

“Nor shall the same be sold, bartered, exchanged or given by any tribe, band or body of Indians or any Indian of any such tribe, band or body to any person or persons other than a tribe, band or body of Indians or any Indian of any tribe; and any such sale, barter, exchange or gift, shall be absolutely null or void, unless any such sale, barter, exchange or gift be made with the written assent of the Indian agent; and any person who may buy or otherwise acquire any presents or property purchased as aforesaid without the written consent of the Indian agent as aforesaid shall be guilty of a misdemeanor, and be punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months in any place of confinement other than a Penitentiary.” Certain sales, exchanges, &c. to be void.

Punishment of purchaser, &c.

15. For the purpose of determining what persons are entitled to hold, use or enjoy the lands and other immoveable property belonging to or appropriated to the use of the various tribes, bands or bodies of Indians in Canada, the following persons and classes of persons, and none other, shall be considered as Indians belonging to the tribe, band or body of Indians interested in any such lands or immoveable property: What persons only shall be deemed Indians.

Firstly. All persons of Indian blood, reputed to belong to the particular tribe, band or body of Indians interested in such lands or immoveable property, and their descendants;

Secondly. All persons residing among such Indians, whose parents were or are, or either of them was or is, descended on either side from Indians or an Indian reputed to belong to the particular tribe, band or body of Indians interested in such lands or immoveable property, and the descendants of all such persons; And

Thirdly. All women lawfully married to any of the persons included in the several classes hereinbefore designated; the children issue of such marriages, and their descendants.

By 32-33 V. c. 6, sec. 6, this Section was amended by adding the following Proviso :

Indian women marrying other than Indians, not to be Indians within this Act.

" Provided always that any Indian woman marrying any other than an Indian, shall cease to be an Indian within the meaning of this Act, nor shall the children issue of such marriage be considered as Indians within the meaning of this Act ; Provided also, that any Indian woman marrying an Indian of any other tribe, band or body shall cease to be a member of the tribe, band or body to which she formerly belonged, and become a member of the tribe, band or body of which her husband is a member, and the children, issue of this marriage, shall belong to their father's tribe only."

How road labour shall be performed on Indian lands.

16. Indians and persons intermarried with Indians, residing upon any Indian Lands, and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the *Secretary of State*, or any officer or person by him thereunto authorized, to perform labour on the public roads laid out or used in or through or abutting upon such Indian lands, such labour to be performed under the sole control of the said *Secretary of State*, officer or person, who may direct when, where and how and in what manner, the said labour shall be applied, and to what extent the same shall be imposed upon Indians or persons intermarried with Indians, who may be resident upon any of the said lands ; and the said *Secretary of State*, officer or person shall have the like power to enforce the performance of all such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in that one of the Provinces of Canada in which such lands lie, for the non-performance of statute labour ; But the labour to be so required of any such Indian or person intermarried with an Indian, shall not exceed in amount or extent what may be required of other inhabitants of the same province, county or other local division, under the laws requiring and regulating such labour and the performance thereof.

Proviso.

For " Secretary of State " read " Minister of the Interior. "
36 V. c. 4, sec. 8.

None but persons deemed Indians to settle on Indian lands.

17. No persons other than Indians and those intermarried with Indians, shall settle, reside upon or occupy any land or road, or allowance for roads running through any lands belonging to or occupied by any tribe, band or body of Indians ; and all mortgages or hypothecs given or consented to by any Indians or any persons intermarried with Indians, and all leases, contracts and agreements made or purporting to be made, by any Indians or any person intermarried with Indians, whereby persons other than Indians are permitted to reside upon such lands, shall be absolutely void.

Removal of unauthorized persons, settling on Indian lands, provided for.

18. If any persons other than Indians or those intermarried with Indians do, without the license of the *Secretary of State* (which license, however, he may at any time revoke), settle, reside upon or occupy any such lands, roads or allowances for roads, the *Secretary of State*, or such officer or person as he may thereunto depute and authorize, shall, on complaint made

to him, and on proof of the fact to his satisfaction, issue his warrant signed and sealed, directed to the sheriff of the proper county or district, or if the said lands be not situated within any county or district, then directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said lands or roads, or allowances for roads, all such persons and their families, so settled, residing upon or occupying the same; and such sheriff or other person shall, accordingly, remove such persons, and for that purpose shall have the same powers as in the execution of criminal process; but the provisions in this and the four next following sections shall extend to such Indian lands only, as the Governor, from time to time, by proclamation published in the *Canada Gazette*, declares and makes subject to the same, and so long only as such proclamation remains in force. Proviso.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

By 32-33 V. c. 6, sec. 2, this section and the three following are extended to persons liable to be summarily ejected under that Act.

19. If any person after having been removed as aforesaid returns to, settles upon, resides upon, or occupies, any of the said lands or roads or allowances for roads, the *Secretary of State* or any officer or person deputed and authorized, as aforesaid, upon view, or upon proof on oath made before him or to his satisfaction, that the said person has returned to, settled or resided upon or occupied any of the said lands or roads or allowances for roads, shall direct and send his warrant signed and sealed, to the Sheriff of the proper County or District, or to any literate person therein, and if the said lands be not situated within any County, then to any literate person commanding him forthwith to arrest such person and commit him to the Common Gaol of the said County or District or to the Common Gaol of the nearest County or District to the said lands, if the said lands be not within any County or District, there to remain for the time ordered by such warrant, but which shall not exceed thirty days. Arrest and imprisonment of persons so removed, if they return to the lands.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

20. Such Sheriff or other person shall accordingly arrest the said party, and deliver him to the Gaoler or Sheriff of the proper County or District who shall receive such person, and imprison him in the said Common Gaol for the term aforesaid, there to remain without bail and without being entitled to the liberties or limits of the said Gaol. Sheriff, &c., to arrest such persons.

21. The said *Secretary of State*, or such officer or person as aforesaid, shall cause the judgment or order against the Judgment—it shall be final.

offender to be drawn up, and such judgment shall not be removed by *Certiorari* or otherwise, or be appealed from, but shall be final.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

Penalty on persons cutting timber or removing stone, &c., from Indian lands.

How enforced and applied.

22. If any person without the license in writing of the *Secretary of State* or of some officer or person deputed by him for that purpose, trespasses upon any of the said lands or roads or allowances for roads, by cutting, carrying away or removing therefrom, any of the trees, saplings, shrubs, underwood or timber thereon, or by removing any of the stone or soil of the said lands, roads or allowances for roads, the person so trespassing shall for every tree he cuts, carries away or removes, forfeit and pay the sum of twenty dollars, and for cutting, carrying or removing any of the saplings, shrubs, underwood or timber, if under the value of one dollar, the sum of four dollars, but if over the value of one dollar, then the sum of twenty dollars, and for removing any of the stone or soil aforesaid, the sum of twenty dollars, such fine to be recovered by the said *Secretary of State*, or any officer or person by him deputed, by distress and sale of the goods and chattels of the party or parties fined, or the said *Secretary of State*, officer or person without proceeding by distress and sale as aforesaid, may, upon the non-payment of the said fine, order the party or parties to be imprisoned in the Common Gaol as aforesaid, for a period not exceeding thirty days, when the fine does not exceed twenty dollars, or for a period not exceeding three months, when the fine does exceed twenty dollars; and upon the return of any warrant for distress or sale, if the amount thereof has not been made, or if any part of it remains unpaid, the said *Secretary of State*, officer or person, may commit the party in default upon such warrant, to the Common Gaol as aforesaid, for a period not exceeding thirty days if the sum claimed by the *Secretary of State*, upon the said warrant, does not exceed twenty dollars, or for a time not exceeding three months if the sum claimed does exceed twenty dollars; all such fines shall be paid to the Receiver-General, to be disposed of for the use and benefit of the tribe, band or body of Indians for whose benefit the lands are held, in such manner as the Governor may direct.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

Misnomer in writs, warrants, &c., not to invalidate them.

23. In all orders, writs, warrants, summonses and proceedings whatsoever made, issued or taken by the *Secretary of State*, or any officer or person by him deputed as aforesaid, it shall not be necessary for him or such officer or person, to insert or express the name of the person summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person is truly given to or known by the *Secretary of State*, officer or person, and if the name be not truly given to or known by him, he may name or describe the

person by any part of the name of such person given to or known by him; and if no part of the name be given to or known by him he may describe the person proceeded against in any manner by which he may be identified; and all such proceedings containing or purporting to give the name or description of any such person as aforesaid shall *prima facie* be sufficient.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

24. All Sheriffs, Gaolers or Peace Officers to whom any such process is directed by the said *Secretary of State*, or by any officer or person by him deputed as aforesaid, shall obey the same, and all other officers upon reasonable requisition shall assist in the execution thereof.

Sheriffs, &c., to obey orders under this Act.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

25. If any Railway, road or public work passes through or causes injury to any land belonging to or in possession of any tribe, band or body of Indians, compensation shall be made to them therefor, in the same manner as is provided with respect to the lands or rights of other persons; the *Secretary of State* shall act for them in any matter relating to the settlement of such compensation, and the amount awarded in any case shall be paid to the Receiver-General for the use of the tribe, band or body of Indians for whose benefit the lands are held.

As to compensation when any Railway, &c., passes through Indian lands.

For "Secretary of State" read "Minister of the Interior."
36 V. c. 4, sec. 8.

26. *This Section relates to Quebec only.*

27. *This Section relates to Quebec only.*

28. In all cases of encroachment upon any lands set apart for Indian reservations or for the use of the Indians, not heretofore provided for, it shall be lawful to proceed by information in the name of Her Majesty in the Superior Courts of Law or Equity, notwithstanding the legal title may not be vested in the Crown.

Proceedings in case of encroachment on Indian lands.

29. The Governor may authorize surveys, plans and reports to be made of any lands reserved for Indians showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as may be required.

Surveys of Indian lands.

30. The proceeds arising from the sale or lease of any Indian lands or from the timber thereon shall be paid to the Receiver-General to the credit of Indian Fund.

Proceeds of timber.

31. *This Section relates to Nova Scotia only.*

32. *This Section relates to New Brunswick only*

33. *Declared that this Act should not affect C. S. Can. Cap-9, but that Statute was repealed by 32-33 V. c. 6, sec. 23.*

34. *Related to Ordnance Lands and was repealed 36 V. c. 1.*

Powers under certain Acts vested in him, in place of Commissioner of Crown Lands.

23 V. c. 2.

C. 23, Con. Stat. Can.

Proviso :

How such Acts shall be construed.

Proviso : Act to refer to 1st July, 1867.

Powers as to certain other Crown Lands.

Governor in Council may make Regulations as to Indian Lands,

35. All powers and duties vested in the Commissioner of Crown Lands with respect to the said Ordnance or Admiralty Lands, in the Provinces of Quebec and Ontario, by the Act of the Parliament of the late Province of Canada, passed in the twenty-third year of Her Majesty's reign, and chaptered two, intituled : *An Act respecting the sale and management of the Public Lands*, or by the twenty-third chapter of the Consolidated Statutes of the said late Province, intituled : *An Act respecting the sale and management of Timber on Public Lands*, (both which Acts shall continue to apply to the said lands ;— or by any other Act or law in force in any of the Provinces now composing the Dominion of Canada, at the time of the Union of the said Provinces, are hereby transferred to and vested in the said Secretary of State, and shall be exercised and performed by him ; Provided that in construing the two Acts cited in this Section, with reference to the said lands, the words "Secretary of State" shall be substituted for the words "Commissioner of Crown Lands," and for the words "Registrar of the Province,"—the words "Governor-General" shall be substituted for the word "Governor," and the words "Governor-General in Council" for the words "Governor in Council,"— and the Governor-General in Council may direct that the said two Acts or either of them, or any part or parts of either or both of them shall apply to the Indian Lands in the Provinces of Quebec and Ontario, or to any of the said lands, and may from time to time repeal any such Order in Council and make another or others instead thereof ; And provided further, that all the powers and duties by this section vested in the Secretary of State, shall be deemed to have been so vested from and after the first day of July now last past, and may be by him exercised with reference to any act or thing done or performed since that date, in connection with Ordnance or Indian Lands.

36. The Secretary of State shall also have the control and management of all Crown Lands being the property of the Dominion, that are not specially under the control of the Public Works Department.

37. The Governor in Council may, from time to time, make such Regulations as he deems expedient for the protection and management of the Indian lands in Canada or any part thereof, and of the timber thereon or cut from off the said lands,

whether surrendered for sale or reserved or set apart for the Indians, and for ensuring and enforcing the collection of all moneys payable in respect of the said lands or timber, and for the direction and government of the officers and persons employed in the management thereof or otherwise with reference thereto, and generally for carrying out and giving effect to the provisions of this Act;—and by such Regulations the Governor in Council may impose such fines not exceeding in any case two hundred dollars, as he deems necessary, for ensuring the due observance of such Regulations, the payment of all such moneys as aforesaid, and the enforcing of due obedience to the provisions of this Act,—and may by such Regulations provide for the forfeiture, or the seizure and detention of any timber in respect of which the said Regulations have been infringed, or on which any sum payable in respect thereof has not been paid, and for the sale of such timber (if not forfeited,) in case the dues, damages and fine be not paid within the time limited by such regulations, and the payment thereof out of the proceeds of the sale; and if forfeited such timber shall be dealt with as the regulation may direct:—and may appropriate any such fines in such manner he may see fit; and the Governor in Council may by such regulations provide for the forfeiture of any lease, licence of occupation, licence to cut timber, or other licence or permission of any kind with respect to such lands, if the conditions on which such licence or permission is granted are not observed; but no such provision imposing any penalty or forfeiture shall impair or diminish any right or remedy of the Crown to recover any money or enforce the performance of the conditions of any such sale, lease, contract, obligation, licence, or permission in the ordinary course of law.

and timber cut on them: and may impose fines for breach of the same, &c.

Proviso: not to impair other remedies.

38. All Regulations or orders in Council made under the next preceding section shall be published in the *Canada Gazette*, and being so published shall have the force of law, from the date of their publication or from such later date as may be therein appointed for their coming into force; and any such regulation may be repealed, amended or re-enacted by any subsequent regulation, and shall be in force until so repealed or amended, unless an earlier period be therein appointed for their ceasing to be in force; and a copy of any such Regulations purporting to be printed by the Queen's Printer shall be *prima facie* evidence thereof.

Publication, effect and proof of regulations.

39. The Governor, may from time to time, appoint officers and agents to carry out this Act, and any orders in Council made under it, which officers and agents shall be paid in such manner and at such rates as the Governor in Council may direct.

Governor may appoint agents &c., under this Act.

40. The Governor in Council may at any time assign any of the duties and powers hereby assigned to and vested in the Secretary of State, to any other member of the Queen's Privy

Governor in Council may transfer duties under this Act,

to any other
department.

Council for Canada, and his department, and from the period appointed for that purpose by any order in Council such duties and powers shall be transferred to and vested in such other member of Her Majesty's Privy Council for Canada and his department.

The duties of the Secretary of State in regard to Indians under this Act are transferred to the Minister of the Interior.
36 V. c. 4.

Yearly report
to Parliament.

41. The *Secretary of State* shall annually lay before Parliament, within ten days after the meeting thereof, a report of the proceedings, transactions and affairs of the department during the year then next preceding.

For "Secretary of State" as to Indian lands, read "Minister of the Interior."

Repeal of In-
consistent
enactments.

42. So much of any Act or law as may be inconsistent with this Act, or as makes any provision in any matter provided for by this Act, other than such as is hereby made, is repealed, except only as to things done, obligations contracted, or penalties incurred before the coming into force of this Act.

32-33 VICT., CAP. 6.

An Act for the gradual enfranchisement of Indians, the better management of Indian affairs and to extend the provisions of the Act 31st Victoria, Chapter 42.

[Assented to 22nd June, 1869.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

What shall be
deemed lawful
possession of
lands by
Indians.

1. In Townships or other tracts of land set apart or reserved for Indians in Canada, and subdivided by survey into lots, no Indian or person claiming to be of Indian blood, or intermarried with an Indian family, shall be deemed to be lawfully in possession of any land in such Townships or tracts, unless he or she has been or shall be located for the same by the order of the Superintendent General of Indian affairs ; and any such person or persons, assuming possession of any lands of that description, shall be dealt with as illegally in possession, and be liable to be summarily ejected therefrom, unless that within six months from the passing of this Act, a location title

be granted to such person or persons by the said Superintendent-General of Indian affairs, or such officer or person as he may thereunto depute and authorize ; but the conferring of any such location title shall not have the effect of rendering the land covered thereby transferable or subject to seizure under legal process.

2. Any person liable to be summarily ejected, under the next preceding section, may be removed from the land of which he may have assumed possession, in the manner provided by the eighteenth section of the Act passed in the thirty-first year of Her Majesty's reign, chapter forty-two, with respect to persons other than Indians or those intermarried with Indians settling on the lands therein referred to without licence of the Secretary of State ; and the said section and the nineteenth, twentieth and twenty-first sections of the said Act, are hereby extended to and shall apply to persons liable to be summarily ejected under this Act, as fully in all respects as to persons liable to be removed from lands under the said Act.

Proceedings to eject parties not lawfully in possession.

3. *This Section was repealed by 37 V. c. 21, sec. 1, and the following substituted.*

"1. Whoever sells, exchanges with, barter, supplies, or gives to any Indian man, woman or child in Canada, any kind of intoxicating liquor, or causes or procures the same to be done, or connives or attempts thereat, or opens or keeps, or causes to be opened or kept on any land set apart or reserved for Indians, a tavern, house, or building where intoxicating liquor is sold, bartered, exchanged, or given or is found in possession of intoxicating liquor in the house, tent, wigwam, or place of abode of any Indian, shall on conviction thereof before any Justice of the Peace upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period not exceeding two years, and be fined not more than five hundred dollars, one moiety to go to the informer or prosecutor, and the other moiety to Her Majesty, to form part of the fund for the benefit of that tribe or body of Indians with respect to one or more members of which the offence was committed ; and the commander or person in charge of any steamer or other vessel, or boat, from or on board of which, any intoxicating liquor shall have been sold, bartered, exchanged, supplied or given to any Indian man, woman or child shall be liable on conviction thereof before any Justice of the Peace, upon the evidence of one credible witness other than the informer or prosecutor, to be fined not exceeding five hundred dollars for each such offence the moieties thereof to be applicable as hereinbefore mentioned, and in default of immediate payment of such fine any person so fined may be committed to any common gaol, house of correction, lock-up, or other place of confinement by the Justice of the Peace before whom the conviction shall take place, for a period of not more than twelve months, or until such fine shall be paid ; and in all cases arising under this section, Indians shall be competent witnesses ; but no penalty shall be incurred in case of sickness where any intoxicating liquor is made use of under the sanction of any medical man or under the directions of a minister of religion."

Provisions preventing the supplying of intoxicating liquors to Indians.

Punishment for contravention, by fine and imprisonment.

If supplied from or on board any vessel.

Indians competent as witnesses. Proviso.

"2. The keg, barrel, case, box, package or receptacle whence intoxicating liquor has been sold, exchanged, bartered, supplied or given, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the balance of the contents thereof, if such barrel, keg, case, box, package,

Forfeiture of the package containing such liquors.

Seizure of liquor. receptacle or vessel aforesaid respectively, can be identified, and any intoxicating liquor imported or manufactured or brought into and upon any land set apart or reserved for Indians, or into the house, tent, wigwam or place of abode of any Indian, may be seized by any constable wheresoever found on such land; and on complaint before any Judge, Stipendiary Magistrate or Justice of the Peace, he may, on the evidence of any credible witness that this Act has been contravened in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and the person in whose possession they were found may be condemned to pay a penalty not exceeding one hundred dollars, nor less than fifty dollars, and the costs of prosecution; and one half of such penalty shall belong to the prosecutor, and the other half to Her Majesty for the purposes hereinbefore mentioned, and in default of immediate payment the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement for any time not exceeding six months, unless such fine and costs are sooner paid."

And forfeiture. "3. When it shall be proved before any Judge, Stipendiary Magistrate or Justice of the Peace that any vessel, boat, canoe or conveyance of any description upon the sea or sea-coast, or upon any river, lake or stream in Canada, is employed in carrying intoxicating liquor, to be supplied to any Indian or Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited as in the last sub-section mentioned, and sold, and the proceeds thereof paid to her Majesty for the purposes hereinbefore mentioned."

Penalty on persons having such packages, &c., in possession. "4. It shall be lawful for any constable, without process of law, to arrest any Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he shall have become sober; and such Indian shall, when sober, be brought before any Judge, Stipendiary Magistrate or Justice of the Peace, and if convicted of being so found in a state of intoxication, shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for any period not exceeding one month. And if any Indian having been so convicted as aforesaid, shall refuse, upon examination, to state or give information of the person, place and time, from whom, where and when he procured intoxicating liquor, and if from any other Indian, then, if within his knowledge, from whom, where and when such intoxicating liquor was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days."

Forfeiture of the vessel, boat, canoe, &c., carrying liquors to be supplied to Indians. "5. The words 'intoxicating liquor' shall mean and include all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and intoxicating liquor or fluid; as also opium and any preparation thereof, whether liquid or solid; and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drug or substance, and whether the same, or any of them, be liquid or solid."

Indian found drunk may be arrested. "6. No prosecution, conviction or commitment under this Act shall be invalid on account of want of form so long as the same is according to the true meaning of this Act."

And must, on conviction, declare how he got the liquor. Punishment for refusal. 4. In the division among the members of any tribe, band, or body of Indians, of any annuity money, interest money or rents, no person of less than one-fourth Indian blood, born after the passing of this Act, shall be deemed entitled to share in any annuity, interest or rents, after a certificate to that effect is given by the Chief or Chiefs of the band or tribe in Council,

Interpretation clause. "Intoxicating liquor."

Want of form not to invalidate proceedings under this Act.

Division of annuity money, &c.

and sanctioned by the Superintendent General of Indian affairs.

5. Any Indian or person of Indian blood who shall be convicted of any crime punishable by imprisonment in any Penitentiary or other place of confinement, shall, during such imprisonment, be excluded from participating in the annuities, interest money, or rents payable to the Indian tribe, band, or body, of which he or she is a member; and whenever any Indian shall be convicted of any crime punishable by imprisonment in a Penitentiary, or other place of confinement, the legal costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General of Indian Affairs, and paid out of any annuity or interests coming to such Indian, or to the band or tribe, as the case may be.

Indians convicted of crime excluded.

How costs may be paid.

6. The fifteenth section of the thirty-first Victoria Chapter forty-two, is amended by adding to it the following proviso :

Proviso added to 31 V., c. 4, s. 15.

“Provided always that any Indian woman marrying any other than an Indian, shall cease to be an Indian within the meaning of this Act, nor shall the children issue of such marriage be considered as Indians within the meaning of this Act; Provided also, that any Indian woman marrying an Indian of any other tribe, band or body shall cease to be a member of the tribe, band or body to which she formerly belonged, and become a member of the tribe, band or body of which her husband is a member, and the children, issue of this marriage, shall belong to their father's tribe only.”

Indian women marrying other than Indians not to be Indians within this Act.

7. The Superintendent General of Indian affairs shall have power to stop the payment of the annuity and interest money of any person of Indian blood who may be proved to the satisfaction of the Superintendent General of Indian affairs to have been guilty of deserting his wife or child, and the said Superintendent may apply the same towards the support of any woman or child so deserted.

Power of Superintendent General in cases of desertion.

8. The Superintendent General of Indian affairs in cases where sick or disabled, or aged and destitute persons are not provided for by the tribe, band or body of Indians of which they are members, may furnish sufficient aid from the funds of each tribe, band or body, for the relief of such sick, disabled, aged or destitute persons.

Aid to sick or destitute persons.

9. Upon the death of any Indian holding under location title any lot or parcel of land, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve upon his children, on condition of their providing for the maintenance of their mother, if living; and such children shall have a life estate only in such land which shall not be transferable

Property of Indians to descend to their children for their lives only.

or subject to seizure under legal process, but should such Indian die without issue, such lot or parcel of land and goods and chattels shall be vested in the Crown for the benefit of the tribe, band or body of Indians, after providing for the support of the widow (if any) of such deceased Indian.

Election of
Chiefs.

10. The Governor may order that the Chiefs of any tribe, band or body of Indians shall be elected by the male members of each Indian settlement of the full age of twenty-one years at such time and place, and in such manner as the Superintendent General of Indian affairs may direct, and they shall in such case be elected for a period of three years, unless deposed by the Governor for dishonesty, intemperance, or immorality, and they shall be in the proportion of one Chief and two Second Chiefs for every two hundred people; but any such band composed of thirty people may have one Chief; Provided always that all life Chiefs now living shall continue as such until death or resignation, or until their removal by the Governor for dishonesty, intemperance, or immorality.

Proviso as to
life Chiefs.

Duties of
Chiefs with
respect to
roads, &c.

11. The Chief or Chiefs of any tribe, band or body of Indians shall be bound to cause the roads, bridges, ditches and fences within their Reserve to be put and maintained in proper order, in accordance with the instructions received from time to time from the Superintendent General of Indian affairs; and whenever in the opinion of the Superintendent General of Indian affairs the same are not so put or maintained in order, he may cause the work to be performed at the cost of the said tribe, band or body of Indians, or of the particular Indian in default, as the case may be, either out of their annual allowances, or otherwise.

Chiefs to
frame rules
for certain
purposes.

12. The Chief or Chiefs of any Tribe in Council may frame, subject to confirmation by the Governor in Council, rules and regulations for the following subjects, viz.:

1. The care of the public health.
2. The observance of order and decorum at assemblies of the people in General Council, or on other occasions.
3. The repression of intemperance and profligacy.
4. The prevention of trespass by cattle.
5. The maintenance of roads, bridges, ditches and fences.
6. The construction of and maintaining in repair of school houses, council houses and other Indian public buildings.
7. The establishment of pounds and the appointment of pound-keepers.

13. The Governor-General in Council may on the report of the Superintendent-General of Indian Affairs order the issue of Letters Patent granting to any Indian who from the degree of civilization to which he has attained, and the character for integrity and sobriety which he bears, appears to be a safe and suitable person for becoming a proprietor of land, a life estate in the land which has been or may be allotted to him within the Reserve belonging to the tribe, band or body of which he is a member; and in such case such Indian shall have power to dispose of the same by will, to any of his children, and if he dies intestate as to any such lands, the same shall descend to his children according to the laws of that portion of the Dominion of Canada in which such lands are situate, and the said children to whom such land is so devised or descends shall have the fee simple thereof.

Life estates in lands may be granted in certain cases.

14. If any enfranchised Indian owning land by virtue of the thirteenth and sixteenth sections of this Act, dies without leaving any children, such land shall escheat to the Crown for the benefit of the tribe, band, or body of Indians to which he, or his father, or mother (as the case may be) belonged; but if he leaves a widow, she shall instead of Dower to which she shall not be entitled, have the said land for life or until her re-marriage, and upon her death or re-marriage it shall escheat to the Crown for the benefit of the tribe, band or body of Indians to which he, or his father, or mother (as the case may be) belonged.

Descent of lands in case of death of an enfranchised Indian.

15. The wife or unmarried daughters of any deceased Indian who may, in consequence of the operation of the thirteenth and sixteenth sections of this Act be deprived of all benefit from their husband's or father's land, shall in the periodical division of the annuity and interest money or other revenues of their husband's or father's tribe or band, and so long as she or they continue to reside upon the reserve belonging to the tribe or band, and remain in widowhood or unmarried, be entitled to and receive two shares instead of one share of such annuity and interest money.

Provision for widows and unmarried daughters.

16. Every such Indian shall, before the issue of the letters patent mentioned in the thirteenth section of this Act, declare to the Superintendent-General of Indian affairs, the name and surname by which he wishes to be enfranchised and thereafter known, and on his receiving such letters patent, in such name and surname, he shall be held to be also enfranchised, and he shall thereafter be known by such name and surname, and his wife and minor unmarried children shall be held to be enfranchised; and from the date of such letters patent, the provisions of any Act or law making any distinction between the legal rights and liabilities of Indians and those of Her Majesty's other subjects shall cease to apply to any Indian, his wife or minor children as aforesaid, so declared to be enfranchised, who

Duties of Indians with respect to enfranchisement.

Effect of enfranchisement

shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as their right to participate in the annuities and interest money and rents, of the tribe, band, or body of Indians to which they belonged is concerned; except that the twelfth, thirteenth, and fourteenth sections of the Act thirty-first Victoria, chapter forty-two, and the eleventh section of this Act, shall apply to such Indian, his wife and children.

The sections of 31 V. c. 42, which are referred to will be found ante, except sec. 12, which was repealed by 37 V. c. 21, sec. 1.

Allotment of
locations.

17. In the allotting of locations, and in the issue of Letters Patent to Indians for land, the quantity of land located or to be located or passed into Patent, shall, except in special cases to be reported upon to the Governor in Council, bear (as nearly as may be) the same proportion to the total quantity of land in the Reserve, as the number of persons to whom such lands are located or patented bears to the total number of heads of families of the tribe, band or body of Indians and male members thereof not being heads of families, but being above the age of fourteen years, in such reserve.

Appointment
of tutor to
minor children
of enfranchis-
ed Indians.

18. If any Indian enfranchised under this Act dies leaving any child under the age of twenty-one years, the Superintendent-General of Indian Affairs shall appoint some person to be the tutor or guardian as the case may be of such child as to property and rights until it attains the age of twenty-one years; and the widow of such Indian, being also the mother of any such child, shall receive its share of the proceeds of the estate of such Indian during the minority of the child, and shall be entitled to reside on the land left by such Indian, so long as in the opinion of the Superintendent-General she lives respectably.

Indians falsely
declaring
themselves
enfranchised.

19. Any Indian falsely representing himself as enfranchised under this Act when he is not so, shall be liable, on conviction before any one Justice of the Peace, to imprisonment for any period not exceeding three months.

Lands of
enfranchised
Indians
exempt from
seizure.

20. Such lands in any Indian Reserve as may be conveyed to any enfranchised Indian by Letters Patent, shall not, as long as the life estate of such Indian continues, be subject to seizure under legal process, or be mortgaged, hypothecated, sold, exchanged, transferred, leased, or otherwise disposed of.

Legal reme-
dies of Indians

21. Indians not enfranchised shall have the right to sue for debt due to them, or for any wrong inflicted upon them, or to compel the performance of obligations made with them.

Duty of Under

22. The Under Secretary of State shall be charged, under

the *Secretary of State of Canada*, with the performance of the Departmental duties of the *Secretary of State* under the said Act, and with the control and management of the officers, clerks, and servants of the Department, and with such other powers and duties as may be assigned to him by the Governor in Council.

The Minister of the Interior is substituted for the Secretary of State by 36 V., c. 4, and the Department of the Minister of the Interior for that of the Secretary of State as far as concerns Indians.

23. Chapter nine of the Consolidated Statutes of Canada is hereby repealed. Con. Stat.
Can., cap. 9.
repealed.

24. This Act shall be construed as one Act with the Act thirty-first Victoria, chapter forty-two. 31 Vic. c. 42.

37 VICT. CAP. 21.

An Act to amend certain Laws respecting Indians, and to extend certain Laws relating to matters connected with Indians to the Provinces of Manitoba and British Columbia.

[Assented to 26th May, 1874.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. The twelfth section of the Act thirty-first Victoria, chapter forty-two, intituled *An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands,* and the third section of the Act thirty-second and thirty-third Victoria, chapter six, intituled *"An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two,"* are hereby repealed, and the following shall be read in lieu of the last mentioned section:— 31 V., c. 42,
s. 12, and 32,
33 V., c. 6, s. 3
repealed, and
new section
substituted for
the latter.

"3. 1. Whoever sells, exchanges with, barter, supplies, or gives to any Indian man, woman or child in Canada, any kind of intoxicating liquor, or causes or procures the same to be done, or connives or attempts thereat or opens or keeps, or causes to be opened or kept on any land set apart or reserved for Indians, a tavern, house, or building where intoxicating liquor is sold, Provisions for
preventing the
supplying of
intoxicating
liquors to
Indians.

Punishment
for contraven-
tion, by fine
and imprison-
ment

If supplied
from or on
board any
vessel.

Indians com-
petent as wit-
nesses.
Proviso.

Forfeiture of
the package
containing
such liquor.

Seizure of
liquor.

And for-
feiture.

Penalty on
persons hav-
ing such
packages, &c.,
in possession.

bartered, exchanged, or given, or is found in possession of intoxicating liquor in the house, tent, wigwam, or place of abode of any Indian, shall, on conviction thereof before any Justice of the Peace upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period not exceeding two years, and be fined not more than five hundred dollars, one moiety to go to the informer or prosecutor, and the other moiety to Her Majesty, to form part of the fund for the benefit of that tribe or body of Indians with respect to one or more members of which the offence was committed; and the commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicating liquor shall have been sold, bartered, exchanged, supplied or given to any Indian man, woman or child, shall be liable, on conviction thereof before any Justice of the Peace, upon the evidence of one credible witness other than the informer or prosecutor, to be fined not exceeding five hundred dollars for each such offence, the moieties thereof to be applicable as hereinbefore mentioned, and in default of immediate payment of such fine any person so fined may be committed to any common gaol, house of correction, lock-up, or other place of confinement by the Justice of the Peace before whom the conviction shall take place, for a period of not more than twelve months, or until such fine shall be paid; and in all cases arising under this section, Indians shall be competent witnesses; but no penalty shall be incurred in case of sickness where any intoxicating liquor is made use of under the sanction of any medical man or under the directions of a minister of religion."

"2. The keg, barrel, case, box, package or receptacle whence intoxicating liquor has been sold, exchanged, bartered, supplied or given and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the balance of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid respectively, can be identified, and any intoxicating liquor imported or manufactured or brought into and upon any land set apart or reserved for Indians, or into the house, tent, wigwam or place of abode of any Indian, may be seized by any constable wheresoever found on such land; and on complaint before any Judge, Stipendiary Magistrate or Justice of the Peace, he may, on the evidence of any credible witness that this Act has been contravened in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and the person in whose possession they were found may be condemned to pay a penalty not exceeding one hundred dollars, nor less than fifty dollars, and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor, and the other half to her Majesty for the purposes hereinbefore mentioned, and in default of immediate payment the offender may be committed to any common gaol, house of correction, lock-up

or other place of confinement for any time not exceeding six months, unless such fine and costs are sooner paid."

"3. When it shall be proved before any Judge, Stipendiary Magistrate or Justice of the Peace that any vessel, boat, canoe, or conveyance of any description upon the sea or sea-coast, or upon any river, lake or stream in Canada, is employed in carrying intoxicating liquor, to be supplied to any Indian or Indians, such vessel, boat, canoe, or conveyance so employed may be seized and declared forfeited as in the last sub-section mentioned, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned."

Forfeiture of the vessel, boat, canoe, &c., carrying liquors to be supplied to Indians.

"4. It shall be lawful for any constable, without process of law, to arrest any Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he shall have become sober; and such Indian shall, when sober, be brought before any Judge, Stipendiary Magistrate, or Justice of the Peace, and if convicted of being so found in a state of intoxication, shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for any period not exceeding one month. And if any Indian having been so convicted as aforesaid, shall refuse, upon examination, to state or give information of the person, place, and time, from whom, where and when he procured intoxicating liquor, and if from any other Indian, then, if within his knowledge, from whom, where and when such intoxicating liquor was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days."

Indian found drunk may be arrested.

And must, on conviction, declare how he got the liquor. Punishment for refusal.

"5. The words 'intoxicating liquor' shall mean and include all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and intoxicating liquor or fluid; as also opium and any preparation thereof, whether liquid or solid; and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drug or substance, and whether the same, or any of them, be liquid or solid."

Interpretation clause. "Intoxicating liquor."

"6. No prosecution, conviction or commitment under this Act shall be invalid on account of want of form so long as the same is according to the true meaning of this Act."

Want of form not to invalidate proceedings under this Act.

2. The following shall be taken and read as part of the fourteenth section of the thirty-first Victoria, chapter forty-two, that is to say:—

31 V., c. 42, s. 14, amended.

"Nor shall the same be sold, bartered, exchanged or given by any tribe, band or body of Indians or any Indian of any

Certain sales, exchanges, &c. to be void.

such tribe, band or body to any person or persons other than a tribe, band or body of Indians or any Indian of any tribe; and any such sale, barter, exchange or gift shall be absolutely null and void unless any such sale, barter, exchange or gift be made with the written assent of the Indian agent; and any person who may buy or otherwise acquire any presents or property purchased as aforesaid, without the written consent of the Indian agent as aforesaid, shall be guilty of a misdemeanour, and be punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months in any place of confinement other than a Penitentiary."

Punishment of purchaser, &c.

3. Upon any inquest, or upon any enquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, or by whomsoever committed, it shall be lawful for any Court, Judge, Stipendiary Magistrate, Coroner or Justice of the Peace to receive the evidence of any Indian or aboriginal native or native of mixed blood, who is destitute of the knowledge of God, and of any fixed and clear belief in religion or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian, aboriginal native or native of mixed blood as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as may be approved by such Court, Judge, Stipendiary Magistrate, Coroner or Justice of the Peace, as most binding in his conscience.

Further provision in the same matter.

4. Provided that in the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian, aboriginal native or native of mixed blood as aforesaid, shall be reduced to writing, and signed by a mark of the person giving the same and verified by the signature or mark of the person acting as interpreter (if any), and of the Judge, Stipendiary Magistrate, Coroner or Justice of the Peace or person before whom such information shall have been given.

Court to warn Indian of his liability to punishment for false statement.

5. The Court, Judge, Stipendiary Magistrate, or Justice of the Peace shall, before taking any such evidence, information or examination, caution every such Indian, aboriginal native or native of mixed blood as aforesaid, that he will be liable to incur punishment if he do not so as aforesaid tell the truth.

When written declarations of Indians may be used in criminal proceedings.

6. The written declaration or examination made, taken and verified in manner aforesaid, of any such Indian, aboriginal native or native of mixed blood as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal suit or proceedings when, under the like circumstances, the written affidavit, examination, deposition or confession of any person, might be lawfully read and received as evidence.

7. Every solemn affirmation or declaration in whatever form made or taken by any person as aforesaid shall be of the same force and effect, as if such person had taken an oath in the usual form, and shall in like manner, incur the penalty of perjury in case of falsehood. Effect of declaration, &c., taken by any person as aforesaid.

8. An Indian is hereby defined to be a person within the definition contained in the fifteenth section of the thirty-first Victoria, chapter forty-two, as amended by the sixth section of the thirty-second and thirty-third Victoria, chapter six, and who shall participate in the annuities and interest moneys and rents of any tribe, band or body of Indians. Indian defined.

9-13. *These sections do not relate to Ontario.*

14. This Act shall be construed as one Act with the Acts thirty-first Victoria, chapter forty-two, and thirty-second and thirty-third Victoria, chapter six. Act how to be construed.

C. S. U. C. CAP. 81.

An Act to prevent Trespasses to Public and Indian Lands.

Most of the enactments contained in this Statute in regard to Indian Lands were repealed by 31 V. c. 42, (see sec. 42 of that Act.) The following sections are here printed as not being inconsistent with 31 V. c. 42, or making any provision in any matter provided for by that Act.

20. In the following sections of this Act, the term "Indian" is to be construed with reference to the consolidated Act of Canada "relating to the Civilization and enfranchisement of certain Indians." Term "Indian" explained.

The Act referred to, namely C. S. Can., c. 9, was repealed by 32, 33 V. c. 6, sec. 23.

21. No purchase or contract for the sale of land in Upper Canada, which may be made of or with the Indians, or any of them, shall be valid unless made under the authority and with the consent of Her Majesty, attested by an Instrument under the Great Seal of the Province, or under the Privy Seal of the Governor. Purchases of land from Indians not valid without the consent of the Crown.

Such purchase
without con-
sent to be a
misdemeanour.

22. If any person, without such authority and consent, purchases or leases, in any manner or form, or upon any terms whatsoever, any lands within Upper Canada of or from the said Indians, or any of them, or makes any contract with such Indians, or any of them, for or concerning the sale of any lands therein, or in any manner gives, sells, demises, conveys, or otherwise disposes of any such lands, or any interest therein, or offers so to do, or enters on, or takes possession of, or settles on any such lands, by pretext or colour of any right or interest in the same, in consequence of any such purchase or contract made or to be made with such Indians or any of them, unless with such authority and consent as aforesaid, every such person shall, in every such case, be deemed guilty of a misdemeanour, and shall, on conviction thereof before any Court of competent jurisdiction, forfeit and pay to Her Majesty, the sum of eight hundred dollars, and be further punished by fine and imprisonment, at the discretion of the Court.

Penalty.

Taxes and as-
sessments not
to be levied on
Indians.

23. No taxes shall be levied or assessed upon any Indian or any person intermarried with any Indian for or in respect of any of the said Indian lands, nor shall any taxes or assessments whatsoever be levied or imposed upon any Indian or any person inter-married with any Indian so long as he, or they reside on Indian lands not ceded to the Crown, or which having been so ceded have been again set apart by the Crown for the occupation of Indians.

The case of
certain works
affecting In-
dian Lands
provided for.

34. If any work under the Act of Canada respecting "Joint Stock Companies to construct works to facilitate the transmission of timber down rivers and streams," be constructed upon or otherwise interferes with any tract of land or property belonging to or in possession of any Tribe of Indians in this Province, or if any property belonging to them be taken, or any act done, under authority of the said Act is occasioning damage to their properties or their possessions, compensation shall be made to them therefor, in the same manner as provided with respect to the property, possession or rights of other individuals, and whenever it is necessary for Arbitrators to be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department within the Province shall name an Arbitrator on behalf of the said Indians; and, where the said lands belong to any Tribe or Body of Indians the amount awarded shall be paid to the said Chief Officer, for the use of such Tribe or Body.

The amount awarded would now be paid to the Receiver-General under 31 V., c. 42, sec. 25.

C. S. U. C. CAP. 128.

An Act respecting the Administration of Justice in the Unorganized Tracts.

The following sections of this Act relate to inciting Indians.

104. Any person inciting any Indians or half-breeds frequenting or residing in any of the unorganized tracts of country aforesaid, to the disturbance of the public peace or to the commission of any other indictable offence, shall be guilty of a felony, and upon conviction thereof shall be sentenced to imprisonment for not more than five years nor less than two years in the Provincial Penitentiary.

Persons inciting Indians, &c., to the commission of certain offences how punishable.

105. Any person accused of inciting Indians or half-breeds as aforesaid, or accused or convicted of any other crime or offence in any such Provisional District as aforesaid, may be committed to any Common Gaol in Upper Canada; and the Constable or other officer having charge of such person and entrusted with his conveyance to any such Common Gaol, may pass through any County or Counties in Upper Canada with such person in his custody, and the keeper of the Common Gaol of any County in Upper Canada in which it may be found necessary to lodge for safe keeping any such person as aforesaid so being conveyed through such County in custody as aforesaid, shall receive such person and him safely keep and detain in such Common Gaol for such period as may be reasonable or necessary, and the Keeper of any Common Gaol in Upper Canada, to which any such person may be committed as aforesaid, shall receive such person and him safely keep and detain in such Common Gaol under his custody until discharged in due course of law, or bailed in cases in which bail may by law be taken.

Persons accused or convicted of crimes in any such provisional districts may be committed to any Gaol in Upper Canada

29 & 30 VICT. CAP. 20.

An Act to confirm the Title to Lands held in Trust for certain of the Indians resident in this Province.

[Assented to 15th August, 1866.]

WHEREAS defects have been found to exist in respect to the mode of execution of Titles to certain Lands in Upper Canada, acquired by certain Tribes of Indians, or by

Preamble.

the Crown in trust for or on behalf of Indians or of Indian Tribes, and it is expedient to quiet and confirm such Titles : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Certain deeds of lands in trust for Indians, confirmed, notwithstanding insufficient execution by married woman.

1. For and notwithstanding anything contained in any Act of the Parliament of the late Province of Upper Canada, or of the Parliament of the Province of Canada, heretofore made and passed, every Deed, Conveyance or Instrument purporting to be a Conveyance and Transfer of Lands, in Upper Canada, to any Tribe of Indians, or to the Crown in trust for or on behalf of Indians or of Indian Tribes, or now held by the Crown on any such trust from any married woman seized of or entitled to such real estate, and made and executed before the passing of this Act, by such married woman, either jointly with or without her husband, or made and executed by any person constituted and authorised by power of attorney executed by such married woman, either jointly with or without her husband, to execute such Deed, Conveyance or Instrument in her name or on her behalf, shall be taken and deemed a valid Conveyance of the Land therein mentioned, and the execution thereof shall be taken and deemed to be valid and effectual and to have passed the estate of such married woman in the said land, although such Deed, Conveyance, Instrument or Power of Attorney was not executed by such married woman in accordance with the provisions of any Law or Statute in force in Upper Canada in respect to the conveyance of real estate by married women, and although no certificate of the consent of such married woman to convey her estate in the said land, or an informal or insufficient certificate was endorsed upon such Deed, Conveyance or Instrument, whether executed by such married woman or by her Attorney, and although no certificate of such consent or an informal or insufficient certificate was endorsed upon such Power of Attorney.

TITLE IV.

EXECUTIVE GOVERNMENT AND PUBLIC OFFICERS GENERALLY.

C. S. CAN., CAP. 10.

An Act respecting the Governor, Civil List and Salaries of certain Public Officers.

This Act is effete or superseded, except the following clause which is part of section 4, sub-section 3.

(3). No pension shall be granted *except to Judges retiring from office*, or under the express provisions of some Act of the Provincial Parliament allowing such Pension Pensions.

The remainder of the subsection is effete.

The case of Judges retiring from office is provided for by 31 V. c. 33.

31 VICT. CAP. 33.

An Act respecting the Governor-General, the Civil List, and the Salaries of certain Public Functionaries.

[Assented to 22nd May, 1868]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows : Preamble.

1. The Governor-General of Canada for the time being, or other Chief Executive Officer or Administrator carrying on the Government of Canada, on behalf and in the name of the Queen, by whatever title he is designated, and his successors, shall be a Corporation sole;—and all bonds, recognizances and other instruments by law required to be taken to him in his public capacity, shall be taken to him and his successors by his Governor-General to be a corporation sole.

name of office, and may be sued for and recovered by him or his successors by his or their name of office as such; and the same shall not in any case go to or vest in the personal representatives of the Governor-General, Chief Executive Officer or Administrator of the Government in whose name they were so taken.

Sums mentioned in the Schedule to this Act, to be payable without an annual vote

2. Inasmuch as it is not expedient that the payment of the salaries of the Ministers composing the Queen's Privy Council for Canada, or of the salaries and pensions of the Judges of the Courts hereinafter mentioned, or of the other sums mentioned in the several Schedules hereunto annexed, should depend upon the annual vote of Parliament: therefore—there shall be payable yearly, and *pro rata* for any less period than a year, the salaries, allowances, grants and sums of money mentioned in the Schedules annexed to this Act, to the persons and for the purposes therein specified, and the same shall be payable out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada.

By 36 V. c. 31, sec 1, post, page 176, so much of this Act as fixes the salary and allowances of any judge, public functionary, or officer mentioned in 36 V. c. 31, was repealed. The latter clause of this Section (printed in italics) is therefore included in the said repeal, except as to the items mentioned at the end of this Act.

Retiring allowance to Judges.

3. In case any Chancellor or Vice-Chancellor of the Court of Chancery, or any Chief Justice or Judge of the Court of Queen's Bench or of the Court of Common Pleas, in the Province of Ontario,—or of the Court of Queen's Bench or of the Superior Court in the Province of Quebec,—or of the Supreme Court of the Province of Nova Scotia, or of the Supreme Court of the Province of New Brunswick,—or any Judge of the Court of Vice Admiralty in any of the said Provinces,—has continued in the Office of Judge of one or more of the Superior Courts of Law or Equity or of the Court of Vice-Admiralty, in any one of the said Provinces for fifteen years or upwards, or becomes afflicted with some permanent infirmity, disabling him from the due execution of his office, then, in case such Judge resigns his office, Her Majesty may, by letters patent under the Great Seal of Canada, reciting such period of office or permanent infirmity, grant unto such Chancellor, Vice-Chancellor or Judge an annuity equal to two thirds of the salary annexed to the office he held at the time of his resignation, to commence immediately after his resignation, and to continue thenceforth during his natural life, and to be payable *pro rata* for any period less than a year, during such continuance, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada.

In what cases H. M., may grant it.

When the foregoing provisions shall take effect.

4. The foregoing provisions of this Act, so far as they relate to the salaries and retiring allowances of Judges and to Indian annuities, shall take effect on and after the first day of July, in

the present year of Our Lord one thousand eight hundred and sixty-eight, from and after which day no further payment shall be made under the authority of chapter ten of the Consolidated Statutes of the late Province of Canada, nor shall any salary, retiring allowance or pension, or travelling allowance be payable under any authority whatever to any Chancellor, Vice-Chancellor, Chief Justice or Judge, except only such as are herein allowed, confirmed and declared payable.

This Section is modified in the same way as Section 2. See note to that Section.

SCHEDULE.

SALARIES, ALLOWANCES, PENSIONS, AND OTHER SUMS OF MONEY PAYABLE UNDER THIS ACT.

Only such portions of this Schedule are printed as relate to the Dominion of Canada and the Province of Ontario, and are not altered or superseded by 36 V., c. 31.

Dominion of Canada.

The Secretary of the Governor-General, while
the present Incumbent remains in office. \$3,000 per ann.
And afterwards.....\$2,400 “

The latter amount is now the Salary of the Official named.

Miscellaneous.

Indian Annuities (Quebec & Ontario).....\$26,664 per an.

32-33 VICT. CAP. 74.

An Act respecting the Salary of the Governor General.

[Reserved for the signification of Her Majesty's pleasure thereon, 22nd June, 1869; Royal Assent given by Her Majesty in Council, on the 7th August, 1869; Proclamation thereof made by His Excellency the Governor-General on the 16th October, 1869.]

HER Majesty, by and with the advice and consent of the Privy Council, Senate and House of Commons of Canada, enacts as follows:—

Salary fixed
at £10,000
sterling.

1. There shall be payable yearly, and *pro rata* for any period less than a year, to the Governor-General of Canada, for the time being, the salary of ten thousand pounds sterling, equal to and of the value of forty-eight thousand six hundred and sixty-six dollars and sixty-three cents; and the same shall be payable out of the Consolidated Revenue Fund of Canada and shall form the third charge thereon.

32-33 VICT. CAP. 8.

An Act to amend the Act thirty-first Victoria, Chapter thirty-three, and to make further provision with respect to the salaries, and travelling allowances of the Judges.

[Assented to 22nd June, 1869.]

Preamble.

WHEREAS it is expedient that the allowances for travelling expenses to the Judges of the Superior Courts in the Dominion, should be fixed by Statute instead of being fixed by Order in Council, as provided in the Act of the now last Session, thirty-first Victoria, chapter thirty-three: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Circuit allowances.

1. The following shall be the scale of Circuit allowances to the Judges hereinafter mentioned:

Ontario.

In the Province of Ontario,—

To each of the Judges of any of the Superior Courts of Law or Equity, one hundred dollars for each time he holds any Court for the trial of causes, in any County except the County of York and the City of Toronto.

Then follow provisions for other Provinces and the section concludes.

How to be applied for.

The application for payment of such allowance shall be accompanied by a certificate of the Judge applying for it, of the number of days for which he is entitled to claim it.

From what time to take effect.

2. The foregoing scale of allowances shall take effect from the twenty-second day of May, one thousand eight hundred and sixty-eight, the day of the passing of the said Act, thirty-first Victoria, chapter thirty-three.

Allowance to retired judge presiding in

3. Any retired Judge of any of the Superior Courts of the Province of Ontario, appointed or to be hereafter appointed

Presiding Judge of the Court of Error and Appeal for that Province, and entitled, under the said Act thirty-first Victoria, chapter thirty-three, to a retiring allowance of two-thirds of the salary annexed to the office he held at the time of his resignation, shall, while he continues to hold the office of Presiding Judge, be entitled, to receive a further allowance equal to one-third of his said salary.

Court of Error and Appeal, Ontario.

As to present Chief Justice of the Court of Error and Appeal, see 37 V. c. 4, sec. 6.

4. The salaries and retiring allowances or annuities of the Judges are hereby declared to be free and clear of all taxes and deductions whatsoever imposed under any Act of the Parliament of Canada.

Exemption from taxation by Parliament.

5. *This Section related to Salaries of County Court Judges in Ontario and New Brunswick, but was superseded by 36 V. c. 31, sec. 10.*

6. *Related to Quebec—repealed.*

7. *Related to Nova Scotia and New Brunswick.*

8. All the sums mentioned in the foregoing sections are hereby granted to Her Majesty for the purposes therein mentioned, and shall be payable out of any moneys forming part of the Consolidated Revenue Fund of Canada.

Sums granted to be paid out of Con. Rev. Fund.

9. So much of the said Act, thirty-first Victoria, chapter thirty-three, as may be inconsistent with the foregoing provisions is hereby repealed.

Inconsistent enactments repealed.

35 Vict., cc. 20 and 21, which amended the above Act do not relate to Ontario.

36 VICT., CAP. 31.

An Act for the re-adjustment of the salaries and allowances of the Judges and other Public Functionaries and Officers, and of the indemnity to the Members of the Senate and House of Commons.

[Assented to 23rd May, 1873.]

WHEREAS it is expedient, in view of the increased cost of living consequent upon the diminished value of money and other causes, to re-adjust the salaries and allow-

Preamble.

ances of the Judges and other public functionaries and officers, hereinafter mentioned, and the indemnity to the members of the Senate and House of Commons: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Enactments of
31 V., c. 33.

32, 33 V. c. 20
and

35 V. c. 20
inconsistent
herewith
repealed.

1. So much of the Act passed in the thirty-first year of Her Majesty's reign and intituled, "*An Act respecting the Governor-General, the Civil List, and the salaries of certain Public Functionaries*," and of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign and intituled, "*An Act to amend the Act thirty-first Victoria, chapter thirty-three, and to make further provision with respect to the salaries and travelling allowances of the Judges*," and of the Act passed in the thirty-fifth year of Her Majesty's reign and intituled, "*An Act further to amend the Act 31 Victoria chapter 33*," as fixes the salary and allowances of any judge, public functionary or officer hereinafter mentioned otherwise than the same is or are fixed by this Act, or as may be in any wise inconsistent with the provisions of this Act, is hereby repealed.

Salaries of
Ministers

2. The salaries of the following Ministers, Members of the Queen's Privy Council for Canada, shall be as follows, viz:—

The Minister of Justice and Attorney General.....			\$7,000 per annum.
The Minister of Militia and Defence...			7,000 "
The Minister of Customs.....			7,000 "
The Minister of Finance.....			7,000 "
The Minister of Public Works.....			7,000 "
The Minister of Inland Revenue.....			7,000 "
The Minister of the Interior.....			7,000 "
The President of the Queen's Privy Council			7,000 "
The Minister of Marine and Fisheries			7,000 "
The Postmaster-General.....			7,000 "
The Minister of Agriculture.....			7,000 "
The Secretary of State of Canada....			7,000 "
The Receiver-General.....			7,000 "

And the Member of the Queen's Privy Council holding the recognized position of First Minister shall receive, in addition, one thousand dollars per annum, commencing from 1st January, 1873.

Salaries of Lt.
Governors.

3. The salaries of the Lieutenant-Governors of the several Provinces shall be as follows, viz:—

The Lieutenant-Governor of Quebec.	\$10,000 per annum,
The Lieutenant-Governor of Ontario.	10,000 "
The Lieutenant-Governor of Nova Scotia.....	9,000 "

The Lieutenant-Governor of New Brunswick.....	9,000 per annum.
The Lieutenant-Governor of Manitoba.....	9,000 „
The Lieutenant-Governor of British Columbia	9,000 „

4. *Relates to Quebec.*

5. The Salaries of the Judges of the Court of Queen's Bench, Chancery and Common Pleas in the Province of Ontario, shall be as follows, viz. :—

Of Judges in
the Province
of Ontario.

The Chief Justice of the Court of Queen's Bench	\$6,000 per annum.
Two Puisné Judges of the said Court, each.....	5,000 „
The Chancellor.....	6,000 „
Two Vice-Chancellors, each.....	5,000 „
The Chief-Justice of the Court of Common Pleas.....	6,000 „
Two Puisné Judges of the said Court, each.....	5,000 „

And to the present presiding Judge of the Court of Error and Appeal for the said Province, there shall be paid in addition to his present allowance as such, a further allowance of one thousand dollars per annum, that sum being equal to the increase hereby made to the salary of the Chief Justice of the Court of Queen's Bench, the office theretofore held by the said presiding Judge.

6. *Relates to Nova Scotia.*

7. The travelling allowances of each of the Judges mentioned in the four next preceding sections, shall be, *as at present*, such as may be allowed him by the Governor in Council.

Travelling al-
lowances of
said Judges.

This section is apparently incorrect. The travelling allowances had been fixed by Statute 32, 33 V. c. 8.

8. *Relates to Manitoba.*

9. *Relates to British Columbia.*

10. Except in the County of York, in the Province of Ontario, and the County of St. John, in the Province of New Brunswick, the salary of each County Court Judge to be hereafter appointed, shall be two thousand dollars per annum, with two hundred dollars for travelling expenses; and the salary of any County Court Judge, or of the Judge of the District of Al-

Salaries and
allowances of
County Court
Judges in
Ontario and
New Bruns-
wick.

goma, hereafter appointed, or heretofore appointed and having heretofore received a salary less than two thousand four hundred dollars per annum, shall, after a period of three years of service as such County Court Judge, be two thousand four hundred dollars per annum, with the travelling allowances aforesaid; and in each of the said Counties of York and St. John, the salary of any County Judge hereafter appointed shall be two thousand four hundred dollars, with two hundred dollars for travelling expenses; and the salary of the present Judge of the County Court of the County of St. John shall be the sum last aforesaid, the salary of the present Judge of the County Court of the said County of York remaining as it now is:

Junior Judges. The salary of each Junior Judge of a County Court in either of the said Provinces shall be two thousand dollars per annum, with two hundred dollars for travelling expenses.

From what time the increases shall take effect.

11. The several increases of salaries, and other changes made by the foregoing sections of this Act, shall take effect from and after the first day of January in the present year one thousand eight hundred and seventy-three, and the increased salaries shall be payable in the same manner, out of the Consolidated Revenue Fund of Canada, as provided by the Act first hereinbefore cited with respect to the salaries therein mentioned.

12. *This Section was repealed by 37 V., c. 4, sec. 8. It related to Retiring allowances of County Judges.*

Act 31 V., c. 3.

13. The Act passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act relating to the Indemnity to Members and the Salaries of the Speakers of both Houses of Parliament*," is hereby amended as follows, viz:—

New section in place of section 1.

(1.) The first section of the said Act is hereby repealed and the following substituted for it, as the first section of the said Act,—

"In each session of Parliament there shall be allowed to each Member of the Senate and House of Commons, attending at such session, ten dollars for each day's attendance, if the session do not extend beyond thirty days; and if the session extends beyond thirty days, then there shall be payable to each Member of the Senate and House of Commons attending at such session a sessional allowance of one thousand dollars, and no more."

Sections 2 and 5 amended.

(2.) The deductions to be made under the second and fifth sections of the said Act, shall be made at the rate of eight dollars per day, instead of five dollars as provided by the said sections.

(3.) The words "ten dollars" shall be substituted for the words "six dollars" whenever the last mentioned words occur in the third and fifth sections of the said Act. Sections 3 and 5 amended.

(4.) The said amendments shall apply to the present session of Parliament; and if in the said present session either House should adjourn for a longer period than thirty days, such adjournment shall for the purposes of the said Act as hereby amended, be equivalent to a prorogation. To apply to present Session. Case of adjournment over 30 days.

14. The twelfth section of the Act last aforesaid is hereby repealed and the following substituted for it as the twelfth section of the said Act,— New section in place of section 12.

"The following salaries shall be payable to the officers hereinafter mentioned respectively:

To the Speaker of the Senate the sum of four thousand dollars per annum;

To the Speaker of the House of Commons the sum of four thousand dollars per annum;—"

And the said section as so amended shall take effect from the first day of January in the present year, one thousand eight hundred and seventy-three. From what time to take effect.

15. The other provisions of the Act last aforesaid shall apply to the sums mentioned in this Act in like manner as they did to those for which they are hereby respectively substituted. Former Acts to apply to sums in this.

16. *This section which related to re-adjusting salaries of civil servants is effete.*

37 VICT. CAP. 4.

An Act to amend the Act thirty-sixth Victoria, chapter thirty-one, for the re-adjustment of the Salaries of Judges and other purposes.

[Assented to 26th May, 1874.]

IN amendment to the Act passed in the thirty-sixth year of Her Majesty's Reign, intituled "*An Act for the re-adjustment of the Salaries and allowances of the Judges and other*" Preamble. 36 V., c. 31.

Public Functionaries and Officers, and of the indemnity to the Members of the Senate and House of Commons," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1—5. *These Sections do not relate to Ontario.*

Salaries of
Chief Justice
and Judges in
Appeal,
Ontario.

6. The salary of the Chief Justice of Appeal in Ontario shall be six thousand dollars per annum, and the salaries of the three additional Judges to be appointed in pursuance of the Act of the Legislature of the Province of Ontario, passed in its now last session, as Justices of the Court of Error and Appeal for the said Province, shall be five thousand dollars each per annum; which salaries shall be payable from the time of their appointment, respectively.

Salaries, how
paid.

7. The salaries mentioned in this Act shall be paid out of the Consolidated Revenue Fund of Canada, as the salaries mentioned in the Act hereby amended.

Section 12 of
36 V., c. 31
repealed.
Retiring
allowance to
County Judges
in Ontario,
New Brun-
swick or P. E.
Island.

8. The twelfth Section of the Act of 1873, thirty-sixth Victoria, chapter thirty-one, is hereby repealed, and in case any Judge of a County Court, in either of the Provinces of Ontario, New Brunswick or Prince Edward Island, becomes, after having continued in such office of Judge of a County Court, in either of the said Provinces for fifteen years, or upwards, afflicted with some permanent infirmity, disabling him from the due execution of his office, or in case he should have continued in such office of Judge of a County Court, in either of the said Provinces, for twenty-five years or upwards, then in case such Judge resigns his office, Her Majesty may, by letters patent, under the Great Seal of Canada, reciting the state of the case, grant such County Judge an annuity equal to two-thirds of the annual salary of which he was in receipt at the time of his resignation, to continue thenceforth, during his natural life, and be payable *pro rata* for any period less than a year during such continuance, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada; and if any person receiving a retiring allowance or annuity under any previous Act, or under the said Act or the present Act, or any Act amending it, is or becomes entitled to any salary in respect of any public office under the Government of Canada, such salary shall be reduced by the amount of such retiring allowance or annuity.

As to Retired
Judges ap-
pointed to
other offices.

Act to be con-
strued as one
with those
amended.

9. This Act and the Act hereby amended, with the Acts it amends, shall be construed as forming one Act with the Act passed in the thirty-first year of Her Majesty's Reign, intituled "*An Act respecting the Governor-General, the Civil List, and the Salaries of certain Public Functionaries.*"

31 VICT. CAP. 38.

An Act respecting Inquiries concerning Public Matters.

[Assented to 22nd May, 1868.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Preamble.

1. Whenever the Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter connected with the good government of Canada, or the conduct of any part of the Public business thereof, and such inquiry is not regulated by any special Law, the Governor may, by the Commission in the case, confer upon the Commissioners or persons by whom such inquiry is to be conducted, the power of summoning before them any party or witnesses, and of requiring them to give evidence on oath, orally or in writing, (or on solemn affirmation if they be parties entitled to affirm in civil matters) and to produce such documents and things as such Commissioners deem requisite to the full investigation of the matters into which they are appointed to examine.

Governor in Council may confer on commissioners appointed to make inquiry on public matter, power to examine on oath, &c.

2. The Commissioner or Commissioners shall then have the same power to enforce the attendance of such witnesses and to compel them to give evidence, as is vested in any Court of Law in Civil cases; and any wilfully false statement made by any such witness on oath or solemn affirmation, shall be a misdemeanour punishable in the same manner as wilful and corrupt perjury; but no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution.

Power to commissioners to compel attendance of witnesses.

Proviso

C. S. CAN. CAP. 12.

An Act respecting the Commissions of Public Officers, and the Oaths of Office and Security to be taken and given by them.

This Act is superseded, as regards the Dominion, by 31 V. caps. 36 and 37 (Dom.), except the following section:

NO RELIGIOUS TEST REQUIRED.

No person need take the Sacrament as a qualification for any office.

No penalty incurred for not taking it.

7. It shall not be necessary for any person for the purpose of qualifying himself to hold office in this Province, or for any other temporal purpose, privilege or advantage whatsoever within the same,—to receive the Sacrament of the Lord's Supper according to the rites or usages of the Church of England, or to deliver a certificate or make proof of his having received the said Sacrament in manner aforesaid;—And no person shall within this Province, be subject to any penalty, forfeiture, incapacity or disability whatsoever, for or by reason of his not having so taken or received the said Sacrament.

31 VICT. CAP. 36.

An Act respecting Commissions, and Oaths of Allegiance and of Office.

[Assented to 22nd May, 1868.]

Preamble:

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

COMMISSIONS.

Proclamation substituted for renewal of commissions, on demise of the crown.

Oath of Allegiance to be taken.

1. Upon the demise of the Crown, it shall not be necessary to renew any commission by virtue whereof any Officer of Canada or any Functionary in Canada held his office or profession during the previous Reign; but a Proclamation shall be issued by the Governor, authorizing all persons in office as Officers of Canada who held commissions under the late Sovereign, and all Functionaries who exercised any profession by virtue of any such Commissions to continue in the due exercise of their respective duties, functions and professions; and such Proclamation shall suffice, and the incumbents shall, as soon thereafter as may be, take the usual and customary oath of Allegiance, as hereinafter provided, before the proper officer or officers thereunto appointed :

Effect of such Proclamation.

2. And such Proclamation being issued, and oath taken, each and every such Officer of Canada and Functionary shall continue in the lawful exercise of the duties and functions of his office or profession, as fully as if appointed *de novo* by commission derived from the Sovereign for the time being; and all acts and things *bonâ fide* done and performed by such incumbents in their respective offices, and in the due and faithful per-

formance of their duties, functions and professions, between the time of such demise and the Proclamation so to be issued (such Oath of Allegiance being always duly taken), shall be deemed to be legally done, and valid accordingly.

2. Nothing in the preceding section shall prejudice or in anywise affect the rights or prerogative of the Crown, with respect to any office or appointment derived or held by authority from it, nor prejudice or affect the rights or prerogatives thereof in any other respect whatsoever. Rights of the Crown saved.

OATHS OF ALLEGIANCE AND OF OFFICE.

3. The following form and no other, shall be that of the Oath of Allegiance to be administered to and taken by every person in Canada, who either of his own accord or in compliance with any lawful requirement made on him, or in obedience to the directions of this Act or of any other Act or law in force in Canada, save and except the "British North America Act, 1867," desires to take an Oath of Allegiance, that is to say: Form of oath prescribed.

"I, A. B., do sincerely promise and swear that I will be faithful and bear true Allegiance to Her Majesty Queen Victoria (*or reigning Sovereign for the time being*), as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Dominion of Canada, dependent on and belonging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatever, which shall be made against Her Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation. So help me God." The form.

And all Magistrates and other Officers lawfully authorized, either by virtue of their office or special commission from the Crown for that purpose, may administer the oath of Allegiance under this Act in any part of Canada; and it shall not be necessary for any person appointed to any civil office in Canada, or for any Mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a Barrister, Advocate, Notary Public, Attorney, Solicitor or Proctor, to make any declaration or subscription, or to take or subscribe any other oath than the oath aforesaid, and also such oath for the faithful performance of the duties of his office, or for the due exercise of his profession or calling as is required by any law in that behalf. Who may administer it.

No other declaration or subscription necessary.

Oath of Office to be taken.

Within what
time the oaths
must be taken.

4. The Oath of Allegiance hereinbefore set forth, together with the Oath of Office or oath for the due exercise of any profession or calling, shall be taken within the period and in the manner, and subject to the disabilities and penalties for the omission thereof, by law provided with respect to such Oaths, in all such cases respectively.

AFFIRMATION OF ALLEGIANCE.

Affirmation of
Allegiance
may be sub-
stituted for
oath.

5. All persons allowed by law to affirm instead of swearing in civil cases in any part of Canada shall be received to take an affirmation of allegiance in the like terms, *mutatis mutandis* as the said Oath of Allegiance; and such affirmation of allegiance, taken before the proper officer, shall in all cases be accepted from such persons in lieu of such oath, and shall as to such affirmants have the like effect as the said Oath of Allegiance; all Magistrates and other officers lawfully authorized either by virtue of their office or by special Commission from the Crown for that purpose may administer the affirmation of allegiance in any part of Canada.

31 VICT. CAP. 37.

An Act respecting the security to be given by Officers of Canada.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. *This section was temporary and required certain Bonds to be given within six months after the passing of this Act.*

Bonds, with
sureties, to be
given by per-
sons hereafter
appointed to
certain public
offices.

2. Every person appointed after the passing of this Act, to any civil office or employment, or commission in any public department of the Government of Canada, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of Canada, and who by reason thereof is required to give security, with surety or sureties, or otherwise shall, within one month after notice of such appointment, if he is then in Canada, or within three months if he is then absent from Canada, (unless he sooner arrives in Canada, and then within one month after such arrival), give and enter

into a bond or bonds, or other security or securities in such sum, and with such sufficient surety or sureties as may be approved of by the Governor, or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys intrusted to him, or placed under his control.

For Form of Bond see post 35 V. c. 19, page 192.

3. *By 33 V. c. 5, sec. 1, post, page 190, the first sub-section of this section was repealed and the following substituted :*

“ Every surety in any such Bond shall make the affidavit in the Form A hereunto annexed, or to the effect thereof, before a Justice of the Peace, and every such Bond or Security shall be proved as to the due execution and delivery of the same, by an affidavit of the attesting witness, made before a Justice of the Peace, and every such Bond or Security, with the several affidavits thereunto annexed, shall be recorded at full length in the Department of the Secretary of State of Canada in the manner herein-after mentioned ; and the original Bond or Security, and the affidavits thereunto annexed, shall forthwith, after such registration, be deposited in the Department of the Minister of Finance.”

Bonds how attested and where recorded, &c.

A Further form of affidavit of the Surety is given in 35 V. c. 19, post, page 194.

2. And every such bond or security, and the affidavits thereunto annexed, shall be recorded and deposited as aforesaid, within one month after being entered into or given, if the person on whose behalf it is entered into or given resides or is in Canada ; and if he is absent from Canada, then within three months after being entered into or given, unless such person arrives sooner in Canada, and then within one month after such arrival.

Time within which it is to be done.

4. The Secretary of State of Canada, shall make an entry, and shall, if required, give a certificate in writing, under his hand and seal, of every such bond or security brought to him to be registered as aforesaid, and therein shall mention the day on which such bond or security is so registered, expressing also in what book, page or number the same is recorded :

Entry of bond and Certificate thereof, by Secretary of State.

2. For the purpose of so registering bonds or securities under this Act, the Secretary of State of Canada shall provide a separate Register Book, every page of which, and every bond or security recorded therein, shall be numbered ; and the day of the month and year when every such bond or security is registered, shall be entered in the margin of the said Register Book, and in the margin of the bond or security ; Provided always, that no bond or security given by any person under this Act, to Her Majesty, Her Heirs or Successors, shall constitute any other or greater lien or claim upon the lands or tenements, goods or chattels of such person, than if such bond had been given to one of Her Majesty's subjects ;

Separate book to be kept for the purpose.

Proviso : as to effect of bond as a lien.

Alphabetical
lists of names
to be kept.

Order of
entry.

Commission
may be declar-
ed avoided
for non-com-
pliance with
this Act.

Avoidance not
to annul acts
done.

Exceptions.

Case of loss of
bond, &c.,

New Bond.

Notice to be
given of death,
&c., of surety.

Delay for giv-
ing notice.

3. The Secretary of State of Canada shall keep separate alphabetical lists of the names of the principals and of the names of the sureties mentioned in such bonds or securities, with reference to the book, page or number where the bonds or securities containing such names are to be found, and shall enter and register the said bonds or securities in the same order of time in which they respectively come to his hands.

5. If any person, who by reason of his appointment to or holding any such civil office or employment or commission in any public department, or of public trust as aforesaid, or who by reason of being concerned in the collection, receipt, disbursement or expenditure of any public money as aforesaid, is required or bound to give any such security, or to register and deposit any such bond or security as aforesaid, neglects to give such security, or to cause such bond or security to be duly registered and deposited in the manner and within the period in this Act prescribed, he shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such security ought to have been given; and such bond or security, registered and deposited as aforesaid, and his appointment or commission shall be void, from and after the time when the Governor declares the same to be avoided under this Act; but such avoidance shall not annul or make void any act or order or other matter or thing done by such person during the time he actually held such appointment, office, employment or commission :

2. No such forfeiture shall take place by reason of any such bond or security, not being registered or deposited, where the proper sureties have been given and the proper bond made out, and when the failure of registry and deposit have arisen from the loss of such bond or security in the transmission thereof from a distance ; but in every such case, a new bond or security, specifying the reason of such delay, shall be made out and signed, registered and deposited, within the like period after the person giving such security receives notice of the loss (regard being had to the place where he then is), as is required by this Act, for the registry thereof if such loss had not occurred.

6. Every such person as aforesaid, who has given any bond or other security, with surety or sureties for the due execution of the trust reposed in him, or for duly accounting for public moneys coming to his hands, shall give notice, in writing, to the Secretary of State of Canada, or to the principal officer or person of the Department to which he belongs, of the death, bankruptcy, insolvency, or residence out of Canada, of any surety or person bound for or with him in any such security ;

2. Such notice shall be given within one month after the fact comes to the knowledge of such person as aforesaid, if he then is or resides in Canada, or within three months if he be out of

Canada, (unless he sooner arrives in Canada, and then within one month after such arrival); and any person who neglects to give such notice within such period as aforesaid, shall forfeit, to the use of Her Majesty, one fourth part of the sum for which the surety so dead, or bankrupt or insolvent, or resident out of Canada, became security, to be recovered in any Court of competent jurisdiction, by action of debt, or information at the suit of the Crown;

Penalty for neglect.

3. And every such person who, upon the death, bankruptcy, insolvency, or residence out of Canada of any surety, neglects to give the security of another surety, to be approved in like manner as such surety dying or becoming bankrupt, insolvent or resident out of Canada, was approved, within such period from his having given notice of the death, bankruptcy or insolvency, or residence out of Canada of the former surety, as is by this Act limited for giving, registering and depositing the original security, or neglects to register and deposit the bond or security of such new surety within such period from his having given the security of such new surety as is by this Act limited, for the registering and depositing of the original bond or security, (the same regard being had to the place in which the person may then be), shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such new security ought to have been given, and such new bond or security registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Governor declares the same to be avoided in like manner, and under and subject to such provisions as aforesaid.

Neglect to provide new surety,—

or register and deposit the bond,—

punishable by forfeiture of appointment.

7. When any person has become surety to the Crown for the due accounting for public moneys, or the proper performance of any public duty, by any such person as aforesaid, such surety, when no longer disposed to continue such responsibility, may give notice thereof to his principal, and also to the Secretary of State of Canada; and all accruing responsibility on the part of such person as such surety shall cease at the expiration of three months from the receipt of the last of such notices, or upon the acceptance by the Crown of the security of another surety whichever shall first happen, and the principal shall, within one month from the receipt of the last of such notices, give the security of another surety, and register and deposit the bond of such new surety, or in default of so doing, shall be liable to forfeit and be deprived of the appointment, office, employment or commission in respect whereof such new security ought to have been given, and such new bond or security registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Governor declares the same to be avoided, in like manner, and under and subject to such provisions as aforesaid.

How sureties of public officers may relieve themselves from further responsibility.

Avoidance of commission.

8. The Governor in Council may remit the forfeiture or Governor may remit penalty

in certain cases.

penalty in any case in which the failure to give security or to register and deposit any bond or security under this Act, has not arisen from any wilful neglect of the person bound to give register or deposit the same :

Or may extend delay for giving security &c.

2. And if it appears to the Governor that the period hereinbefore limited for giving the security of a new surety as aforesaid, is in consequence of particular accidents, casualties or circumstances, insufficient, or that by reason of the distance or loss of letters, or illness, or the refusal of any surety to give the security, or of such surety not being deemed eligible and being rejected, or any other accident or casualty, further time will be necessary to enable the security of such new surety to be given—the Governor in Council may allow such further period for giving the security of such new surety as appears to him reasonable and proper ;

But not for more than two months, and an entry must be made.

3. But such extended period shall in no case exceed two months beyond the period allowed by this Act ; and the precise period proposed to be allowed, together with the special grounds for allowing the same, shall be either entered in the book in which the original security has been registered, or indorsed on the back of the original bond or other security itself ; and the person required to give the security of such new surety, shall not be subject to any forfeiture or penalty for not giving the same within the time limited by this Act, if he gives it within the extended period so allowed as aforesaid.

Governor may approve of security given, &c., after time limited.

9. The Governor may approve of the security given, or the affidavit of qualification filed by any public officer of Canada, although the same has been given or filed after the time limited by this Act ; and in such case the office or commission of such public officer shall be deemed not to have been avoided by such default, but to have remained and to remain in full force and effect.

Acts of public officers not void or voidable for delay in giving security, &c.

10. No act of any public officer of Canada, whose security has been given or registered, or deposited, or whose affidavit of qualification has been filed after the time limited by this Act, shall by such default be void or voidable.

Securities executed at different times within what delay to be registered.

11. Where the securities of the principal and sureties have been executed at different times, (whether they were taken in one and the same bond, deed or other instrument, or in different ones), the period limited for registering and depositing such securities, shall be estimated from the time of execution thereof, by the person who was the last to execute the bond, deed or other instrument, or the last bond, deed or other instrument, as the case may be.

Neglect, &c., not to vacate

12. No neglect, omission or irregularity, in giving or receiving the bonds or other securities, or in registering the same.

within the periods or in the manner prescribed by this Act, shall vacate or make void any such bond or security, or discharge any surety from the obligations thereof.

bond or discharge surety

13. All bonds or other securities hereby required to be registered and deposited, shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same has expired; but no such registering and depositing of any such bond or other security shall be deemed to waive any forfeiture or penalty, or shall exempt the person on whose behalf the same are registered and deposited from any forfeiture or penalty under any of the provisions of of this Act.

Proper officer to register and deposit bonds even after delay expired, but no exemption from penalty to ensue.

14. Nothing in any of the preceding sections of this Act shall apply to or affect any officer of any Department, with respect to which special provision is made by law, for the giving of security by its officers, and the exacting of security from them, unless such special provision does not extend or apply to such officer.

Act not to affect cases specially provided for.

15. The Secretary of State of Canada, shall cause to be prepared, for the information of the Parliament of Canada, within fifteen days after the opening of every Session thereof, a detailed statement of all bonds or securities registered as aforesaid, at his office, and of any changes or entries that have been made in reference to the names and residence of any sureties, and of the amounts in which they have become severally liable, since the period of the previous return submitted to the said Parliament.

Statements of bonds to be laid before Parliament.

16. The Governor in Council may, by Order in Council, direct that whenever any public officer of Canada, is required to give security as aforesaid, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys intrusted to him or placed under his control, or for the due fulfilment in any way of his duty, or of any obligation undertaken towards the Crown, the Bond or Policy of Guarantee of the European Assurance Society, mentioned in the Imperial Act, twenty-second Victoria, chapter twenty-five, or of any Incorporated or Joint Stock Company, incorporated and empowered for like purposes, named by such Order in Council, may be accepted as such security, upon such terms as shall be determined by the Governor in Council.

Governor in Council may authorize security of certain Companies to be accepted for officers of Canada.

FORM A.

County of
Province of
to wit :

} I, A. B., the obligor (or one of the
{ sureties), in the annexed Bond named,
} make oath and say, as follows :

1. I am seized and possessed to my own use of real, or real and personal estate in the Province of _____, in Canada, of the actual value of \$ _____, over and above all charges upon or incumbrances affecting the same.

2. My Post Office address is as follows :

Sworn before me, at _____, in the
County of _____, this _____ day
of _____, A. D. one thousand eight
hundred and sixty

J. P., for the County
of _____, in the Province of _____

33 VICT. CAP. 5.

An Act to amend "An Act respecting the security to be given by Officers of Canada."

[Assented to 12th May, 1870.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

First part of
section 3 of
31 Vict., c. 37
amended.

1. The first part of the third section of an Act made and passed by the Parliament of Canada in the thirty-first year of Her Majesty's reign, chaptered thirty-seven, and intituled, "An Act respecting the security to be given by Officers of Canada," is hereby repealed, and the following section is enacted in lieu thereof, and shall be taken and read as the first part of the third section of the said Act :—

Bonds how
attested and
where re-
corded, &c.

"3. Every surety in any such Bond shall make the affidavit in the Form A hereunto annexed, or to the effect thereof, before a Justice of the Peace, and every such Bond or Security shall be proved as to the due execution and delivery of the same, by an affidavit of the attesting witness, made before a Justice of the Peace, and every such Bond or Security, with the several affidavits thereunto annexed, shall be recorded at full length in the Department of the Secretary of State of Canada in the manner hereinafter mentioned ; and the original Bond or Security, and the affidavits thereunto annexed, shall forthwith, after such registration, be deposited in the Department of the Minister of Finance."

35 VICT. CAP. 19.

An Act further to amend "An Act respecting the security to be given by Officers of Canada."

[Assented to 14th June, 1872.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. Whenever any person is required under the Act passed in the thirty-first year of Her Majesty's Reign, intituled: "*An Act respecting the security to be given by Officers of Canada*," or by any other Act, heretofore passed or hereafter to be passed by the Parliament of Canada, or by any other Act affecting Officers of the Dominion of Canada, or by any order of the Governor in Council, to give bond or security for the due performance of the duties of any office to which he has been, may be, or be about to be appointed, such person may either solely or together with any surety or sureties (as the case may be) give such security by bond to Her Majesty in the form in the Schedule to this Act annexed, marked "A," or to the like effect. Bonds given by officers of the Dominion may be in the form in Schedule. 31 V., c. 37.
2. Whenever a Bond made according to the form set forth in the Schedule to this Act annexed, marked "A," or any other Bond expressed to be made in pursuance of this Act, or referring thereto, contains the form of words contained in column "one" of the said Schedule, such Bond shall be construed and have the same effect as if it contained the form of words contained in column "two" of the said Schedule. How certain forms of words shall be understood in such Bonds.
3. Any recitals may be inserted prior to the condition of the Bond, and the feminine gender may be substituted for the masculine, or the plural number for the singular or *vice versa* in any form in the first column of the said Schedule, and corresponding changes shall be taken to be made in the corresponding form in the second column, and any express exceptions, or qualifications, or additions, made, introduced, or annexed in the first column, shall be taken to be made in the corresponding form in the second column. Recitals:— genders, numbers, &c.
4. Any Bond or part of a Bond which fails to take effect by virtue of this Act shall nevertheless be as effectual to bind the obligors therein, so far as the rules of law and equity will permit as if this Act had not been made. As to Bonds not taking effect under this Act.
5. The Act herein first above cited, as amended by the Act passed in the thirty-third year of Her Majesty's Reign, chapter five, shall apply to every such Bond, and to the affidavits there- Act first cited to apply to Bonds under this Act.

unto annexed, and they shall be valid for all the purposes of the said Acts.

SCHEDULE A.

KNOW ALL MEN BY THESE PRESENTS, THAT WE,

of the
of in the County of
in the Province of
in the Dominion of Canada
(hereinafter called "The Principal"); and
of the
of
in the of
in the Province aforesaid
and

of the said of
(hereinafter called "The Sureties"), are respectively held and firmly bound unto our Sovereign Lady the Queen, her heirs and successors, in the respective penal sums following, that is to say:—"The Principal" in the sum of dollars of lawful money of Canada, and each of "The Sureties" in a sum of dollars of like lawful money, to be paid to our said Sovereign Lady the Queen, her heirs and successors; for which said respective payments, well and faithfully to be made, we severally—and not jointly, or each for the other—bind ourselves, and our respective heirs, executors, and administrators, firmly by these presents, sealed with our respective seals.

Dated this day of
in the year of our Lord One Thousand Eight Hundred and
, and in the year of
Her Majesty's reign.

WHEREAS "The Principal," having been appointed to the office or employment of
is required by law to give security to the Crown for the due performance of the duties appertaining thereto; and "The Sureties"
have consented to become his sureties for such his performance of the said duties; and this Bond is given in pursuance of "*An Act further to amend 'An Act respecting the security to be given by Officers of Canada'*":—

COLUMN ONE.

Now the condition of this obligation is, that if "The Principal" faithfully discharges the duties of the said office and duly accounts for all moneys and property which may come into his custody by virtue of

COLUMN TWO.

Now the condition of the above obligation is such that, if "The Principal," so appointed to the said office or employment as aforesaid, do and shall, from time to time, and at all times, so long as he shall hold the

the said office, this obligation shall be void.

Signed, sealed and
delivered in the
presence of }

said office or employment, or be and remain charged with the actual discharge of the duties appertaining thereto, or any of them, faithfully, honestly, and diligently do, perform, fulfil, and discharge all and every such duties, in every respect, in accordance with the laws now in force in that behalf, as also all and singular such other duties as, by competent authority in that behalf, now are, or hereafter shall or may be attached to the said office or employment, or imposed upon, or required to be performed by the incumbent for the time being of the said office or employment, whether such last-mentioned duties be regulated or imposed by any Act or Acts heretofore passed by the respective Legislatures of the late Province of Canada, or of either of the Provinces of Nova Scotia and New Brunswick, or British Columbia, or which have been or may hereafter be passed by the Parliament of or in force in the Dominion of Canada, or by any Order in Council or Regulations made under any such Act, and whether such duties be extended, increased, or otherwise varied or altered, by any such Act or Acts, so to be passed, or by any such Order in Council or Regulations as aforesaid, or be regulated or imposed, or be extended, increased, or otherwise varied or altered by competent authority, and shall duly account for and pay over all such moneys or securities for money or valuable securities or property as shall come into his hands, custody, or control, by virtue of or in consequence of his holding the said office; And further, if "The Principal," upon his removal from, or his resignation of the said office or employment, or if (in the event of his death during his tenure of the said office or employment), his legal representatives, or some or one of them, do and shall quietly surrender and deliver up the same, and all the moneys, securities for money, valuable securities, or property, books, papers, instruments, instructions, maps, plans, letters, and writings, and other things whatever, which then may be, or ought to be, in his possession, custody, or keeping, by virtue of, or in consequence of his holding the said office, or relating, or in anywise appertaining thereto, then the above obligation shall be null and void and of no effect, otherwise the same shall be and remain in full force and virtue.

AFFIDAVITS TO BE ANNEXED TO THE BOND.

Affidavit of Witness.

PROVINCE of } I,
of } of the } of } in the
To WIT: } of }

in the Province of
make oath and say that I was personally
present, and did see
the obligors in the above bond or writing obligatory,
named, duly execute the said Instrument by signing,
sealing, and, as their respective acts and deeds, deliver-
ing the same; and that I am a subscribing witness to
such execution.

SWORN before me, at the } of }
in the said } of }
this } day of } A.D. }
One thousand eight hundred and seventy }
, a J. P. for the said County. }

*A separate Affidavit in this form will be made by a witness
to the execution by each obligor, if the same person does not wit-
ness the execution by all of them.*

Affidavit of a Surety.

PROVINCE of }
of } I, } one
To WIT: } of the sureties in the foregoing
} Bond named, make oath and say
} as follows:

1. I am seized and possessed to my own use of real,
(or real and personal) estate, in the Province of
in Canada, of the actual value of
dollars over and above all charges upon, or in-
cumbances affecting the same.
2. My Post Office address is as follows: (*insert it*)

SWORN before me at the } of }
in the } of } in the }
Province of } this }
day of } A.D. one thousand }
eight hundred and seventy }
a J.P. for the said County. }

A separate Affidavit to be made by each Surety.

The Indorsement on the Bond shall show :—1. The date of its receipt by the Finance Department ; 2. The names of the Principal and Sureties, and the amount for which each is bound ; 3. The date of the Bond ; 4. The office for the faithful discharge of the duties whereof it is given ; 5. The Registration number ; 6. The folio on which it is entered in the Register of Bonds ; 7. The folio and book in which it is recorded in the office of the Secretary of State and Registrar-General of Canada, certified by the signature of the Secretary or his deputy.

27-28 VICT. CAP. 7.

An Act to authorize the acceptance of certain Incorporated Companies as Sureties for Public Officers.

[Assented to 30th June, 1864.]

WHEREAS it has been represented that certain Incorporated and Joint Stock Companies, of which the European Assurance Society, hereinafter mentioned, is one, are empowered to become the sureties of Public Officers, in certain cases ; and whereas the collection or enforcing of bonds forfeited to the Crown, from private parties, is often difficult, and sometimes impossible : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. *This Section which related to security to be given by public officers is superseded by 31 V., c. 37, sec. 16, (see ante, page 189).*

2. Notwithstanding anything in any Act of the Parliament of this Province passed with respect to Savings Banks, Benevolent Societies, Building Societies, or to any incorporated Bank, Municipal or other Corporation, the Bonds or Policies of Guarantee of the said European Assurance Society, or of any Incorporated or Joint Stock Company formed and empowered for like purposes, may be accepted instead of, or in addition to, the Bond or Security of any officer or servant of such Institution or Corporation, in all cases where, by the provisions of such Act, or of any by-law or rule of such Institution or Corporation, such officer or servant is required to give security, either by himself, or by himself and a surety or sureties, and where the parties directed or authorized to take such security, see fit to accept the Bond or Policy of the said European Assurance Society, or other like Company, as aforesaid, and approve the

Preamble.

Savings Banks, Benevolent Societies, Municipal Corporations, &c., may accept security of the same Companies for their Officers.

Provisions
respecting
such security
to apply.

Existing
Bonds may
be cancelled.

terms and conditions thereof; and all the provisions in any such Act relating to such security to be given by any such officer or servant, or his sureties, shall apply to the Bonds and Policies of Guarantee of the said European Assurance Society, or other such like Company, as aforesaid, which may be taken instead of, or in substitution of, any existing securities, if the parties directed or authorized as aforesaid, see fit, whereupon such existing securities shall be delivered up to be cancelled.

31 VICT. CAP. 34.

An Act respecting the Civil Service of Canada.

[Assented to 22nd May, 1868.]

By 31 V., c. 30, sec. 2, this Act was to take effect from the first day of July, 1868.

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Departmental
Staff.

1. The Departmental Staff of the Civil Service of Canada, at the Seat of Government, shall consist of,—
Deputy Heads of Departments,—
Officers or Chief Clerks,—
Clerks,—and
Probationary Clerks.

Outside Ser-
vice.

2. The Outside Service of the several Departments requiring such service, shall be organized and classified as hereinafter provided.

Appointments.

Age limited.
Exceptions.

3. No appointment shall be made of any person who is then under the age of eighteen years or over the age of twenty-five years, subject to the following exceptions :

Appointments
over age,
allowed in cer-
tain cases re-
quiring special
acquirements.

1. A person over the age of twenty-five years may be appointed to any office or clerkship upon the application and report of the Head of the Department, specifying the reasons therefor; but if the appointment is contemplated on the ground that special attainments are required, the person whom it is proposed to appoint, may be subjected to a special examination in that respect; and if the person appointed is over the age of forty years, a report of the appointment and the reasons thereof, shall be submitted to Parliament at its then next Session; and

2. Any person may, with the approval of the Governor in Council, be appointed as the Private Secretary of the Head of a Department, but the salary or emoluments of any such Private Secretary payable out of public money shall not exceed the rate of six hundred dollars per annum, he shall not by virtue of such appointment be a member of the Civil Service, and his appointment shall cease on the retirement of the Minister who appointed him.

Private Secretaries of Ministers.

4. No appointment or promotion shall be made, except under the authority of the Governor in Council, upon the application and report of the Head of the Department, in which it is to be made.

Authority for appointments or promotions.

5. Every appointment, whether by Commission or otherwise, shall be during pleasure.

Tenure of Office.

Probationary Clerks.

6. Every candidate for admission into the Civil Service shall, as a condition precedent to his nomination, produce such evidence as the Governor may think sufficient as to his age, health and moral character; and upon the delivery of the same, and of the nomination of any Head of a Department, to the Civil Service Board, the said Board shall examine such candidate; and no appointment shall be made until after such nomination, and the passing of such examination: Provided that nothing herein contained shall prevent any special examination being held as to persons to be appointed or promoted in the Outside Service of the Department of Customs, Inland Revenue, Public Works, or Post Office Department, or other outside service, under the supervision of the Department to which such service belongs.

Examination of Candidates for employment.

No appointment without nomination and examination. Proviso: as to special examination for outside service.

7. A Probationary Clerk shall enter the Service at a salary of three hundred dollars per annum, and shall serve in that capacity and at that rate of salary, for at least one year before being eligible for permanent appointment as a Third Class Clerk:—

Term of probation.

But such permanent appointment may be deferred by the Head of the Department; and in such case additional salary, at the rate of fifty dollars per annum, may be allowed; and

Proviso.

If such Probationary Clerk be not at the end of two years, found fit for appointment as a Third Class Clerk, his employment in the Civil Service shall cease.

Proviso.

Clerks.

8. Clerks shall be divided into three Classes: First, Second and Third.

Classes.

Third Class
Clerks.

9. A Third Class Clerk shall receive a salary of four hundred dollars for his first year's service as such, and may thereafter have an annual increase of fifty dollars per annum, until his salary is six hundred and fifty dollars per annum; but he shall not be eligible for promotion into the Second Class until after five years' service in the Third Class.

By 35 V., c. 18, Third Class Clerks are eligible for promotion without having served the time here required. See post, page 204.

Second Class.

10. Second Class Clerks shall be subdivided into Junior Second Class, and Senior Second Class:

Junior.

A Junior Second Class Clerk shall receive a salary of seven hundred dollars for his first year's service as such, and may thereafter have an annual increase of fifty dollars per annum, until his salary is one thousand dollars per annum, but he shall not be eligible for promotion into the Senior Second Class, until after five years' service in the Junior Second Class;

By 35 V. c. 18, Junior Second Class Clerks are eligible for promotion without having served the time here required. See post, page 204.

Senior.

A Senior Second Class Clerk shall receive a salary of one thousand one hundred dollars for his first year's service as such, and may have an annual increase of fifty dollars per annum, until his salary is one thousand four hundred dollars per annum; but he shall be eligible for promotion into the First Class at any period of his service in the Senior Second Class.

First Class
Clerks.

11. A First Class Clerk shall receive a salary of not less than one thousand two hundred dollars per annum, and may have an annual increase of fifty dollars per annum, until his salary is one thousand eight hundred dollars per annum:

Proviso as to
salary, and
increase of sa-
lary.

But if any Clerk promoted into the First Class, has at the time of such promotion, a higher salary than one thousand two hundred dollars per annum, he shall continue to receive such salary until by length of service in the First Class he has a right to that amount as a First Class Clerk, from which time he shall receive the annual increase until his salary is one thousand eight hundred dollars per annum;

Promotion.

A First Class Clerk shall be eligible for promotion at any period of his service in the First Class.

Officers or Chief Clerks

Officers or
Chief Clerks.

12. There may be in each Department of the Civil Service, one or more Officers or Chief Clerks, who shall receive such salaries respectively as may be fixed and determined by the Governor in Council, as hereinafter provided.

13. If, in any Department, there are no special duties Chief Clerks. requiring or assigned to an Officer or Chief Clerk, an additional salary, not exceeding four hundred dollars per annum, may be given by Order in Council to one or other First Class Clerks in such Department, who shall have the rank of Chief Clerk.

Deputy Heads of Departments.

14. The Officers mentioned in Schedule A to this Act, shall Who shall be, and how appointed; Salaries. be appointed under the Great Seal, and shall be respectively the Deputy Heads of the Departments also mentioned in the said Schedule, and shall receive such salaries respectively as may be assigned to them by the Governor in Council as hereinafter provided :

In the absence of any Deputy Head, the Head of the Department may empower any Officer or Chief Clerk thereof to perform the duties of such Deputy Head; Absence of Deputy Head.

It shall be the duty of the Deputy Head of each Department, and he shall have authority (subject always to the Head of the Department) to oversee and direct the other Officers, Clerks and Servants of the Department; he shall have the general control of the business of the Department, and such other powers and duties as may be assigned to him by the Governor in Council; and in the absence of the Minister, and during such absence, may suspend from his duties any Officer, Clerk or Servant of the Department who refuses or neglects to obey his directions as such Deputy. Duties and powers of Deputy Heads.

By 36 V., c. 4 sec. 6, this Section is applied to the Deputy of the Minister of the Interior.

15. As soon as conveniently may be after the passing of this Act, the Governor in Council shall determine the number of Officers or Chief Clerks, and of the Clerks of each class, that are required for the working of the Staff and Outside Service respectively, of each Department, and shall classify the same according to the arrangement so determined; and such classification shall be submitted to Parliament, not later than the first week of the session of Parliament next ensuing, and the estimates of the following year shall be based thereon; and after such classification has been submitted to Parliament, no first class Clerk, and no Officer or Chief Clerk shall be appointed, nor shall any person be rated at a salary higher than the maximum of the first class except (1) upon a vacancy, or (2) upon the creation of an additional first class Clerkship or Office, or Chief Clerkship, by a special Order in Council, and upon the approval by Parliament of the salary thereunto attached, as a separate item in the estimates of the year in which such first class Clerkship or Office, or Chief Clerkship is created. Order in Council to limit the number of Officers and Clerks. Not to be changed except by authority of Parliament.

Proviso, if the existing number of Clerks be greater than that allowed by Order in Council.

16. If the number of Clerks attached to any Department, as Staff or as Outside Service, at the date of such classification by Order in Council, and entitled according to the amounts of their salaries to rank in any class mentioned in such Order, be greater than the number of such class thereby allowed to the Department, as Staff or as Outside Service, then the Head of the Department shall name the persons to fill the several offices, and the remainder shall be Supernumerary Clerks of that class respectively in which their then salaries entitle them to rank; and every such Supernumerary Clerkship shall lapse upon a vacancy and shall not be filled.

Messengers.

Age, nomination and examination.

17. No appointment shall be made of any person as messenger who is over thirty-five years of age, or until he has been nominated by the Head of a Department, and has produced such certificates and passed such examination as shall be prescribed by the Civil Service Board and approved of by the Governor in Council.

Salary.

18. A messenger shall enter the Service at a salary to be fixed by the Governor in Council, not exceeding three hundred dollars for the first year, and may thereafter have an annual increase of thirty dollars per annum, until his salary is five hundred dollars per annum.

Office Keeper.

No resident male Office Keeper shall be paid more than five hundred dollars per annum.

Extra Clerks.

When only allowed, and rate of pay.

19. No extra Clerk shall, except under an Order in Council, be employed in any Department, unless for a period not exceeding one month, for which he may be paid at a rate not exceeding one dollar and fifty cents per diem, out of the Contingencies of the Department, on the Certificate of the Head or Deputy Head thereof;—except only that if such Extra Clerk be an Accountant, a Book-keeper or a person of special attainments, and employed as such, he may be paid at a rate not exceeding four dollars per diem :

Exception.

Proviso : if employed beyond one month.

But any Extra Clerk may, under an Order in Council, made on the application and report of the Head of the Department, that the same is requisite, be employed for a longer period than one month, but not exceeding six months, and he shall during such period be borne on the pay-list of the Department ;

If employed more than six months.

After the end of the six months such Extra Clerk shall only be retained in the Department as a Probationary Clerk, if nominated, examined and appointed as such in the manner required by this Act ; but if so appointed, the time during

which he has served as an Extra Clerk, may be counted in his service as a Probationary Clerk.

General Provisions.

20. No allowance or compensation shall be made for any extra service whatsoever which any officer or clerk may be required to perform in the Department to which he belongs. No pay for extra service.

21. No Clerk shall have an absolute right to the annual increase of salary authorized by the Act but the same may be suspended and subsequently restored by the Head of the Department, but without payment of arrears : No absolute right to increase of salary.

The annual increase of salary shall be payable from the first day of the quarter next succeeding the date at which from his length of service any Clerk may be eligible for such increase ; Commencement of increase.

In case of promotion, the increase of salary shall become payable from the first day of the month next succeeding the date at which such promotion took place. In case of promotion.

22. Nothing in this Act shall affect the salary or emolument of any Officer or Clerk in the Civil Service at the time of the passing of this Act, so long as he shall be continued in office ; but no provision herein contained shall be construed to impair the power of the Governor to remove or dismiss any such Officer or Clerk. Salaries of present incumbents not affected. Proviso.

23. When the Clerks on the Staff or on the Outside Service of any Department cannot, with sufficient speed, perform the duties required on any emergency, the Deputy Head of such Department may require from the Deputy Heads of any other Departments the temporary services of any number of Clerks as may not be then actively engaged in services of their own Departments, but without additional remuneration. Clerks in one Department may be employed in another.

24. The Head of every Department may, at such times as may be convenient, grant to every Officer or Clerk leave of absence for recreation for any period or periods not exceeding in the whole three weeks in each year, and may in cases of illness or other pressing necessity, grant such extended leave not exceeding twelve months and on such terms as the Governor in Council may think fit. Leave of absence.

Civil Service Board.

25. There shall be a Board to be called the Civil Service Board, and to be composed of the persons who for the time being fill the offices named in the Schedule A ; How composed.

- Quorum.** Five of the members of the Board shall be a quorum, and may exercise all the functions of the Board ;
- Chairman and Secretary.** A Chairman and Secretary shall be chosen annually from amongst themselves, and minutes of their proceedings shall be kept.
- Duties.** The duties of the Board shall be,—
- Rules and regulations.** 1. To frame and publish Regulations to be observed by candidates for employment in the Civil Service of Canada, and the subjects of such examination (varying for each Department according to the peculiar nature of its general functions and duties,) and to alter the same, from time to time, such Regulations being first approved by the Governor in Council ;
- Examination of Candidates.** 2. To examine all candidates who present themselves upon a nomination for office, as hereinbefore mentioned, and in accordance with the regulations of the Board, and any other regulations or restrictions provided under this Act ;
- Register.** 3. To keep a record of the candidates for examination, showing the name, age, place of birth, and residence of each candidate, by what Head of a Department nominated, and the result of his examination ;
- Certificates.** 4. To grant certificates of qualification to candidates whose examination as to fitness and capacity, and whose testimonials as to moral character, have been found satisfactory ;
- Claims to promotion.** 5. To investigate the length of service of any person claiming to be entitled on such ground to promotion from any one class to that next above it, and to report thereon to the Head of the Department ;
- Report yearly to Governor.** 6. To report in the month of January, in each year, to the Governor in Council, all cases in which there has been any departure, during the previous year, from the Rules and Regulations prescribed by this Act ;
- Matters referred by Governor in Council to the Board.** 7. And the Governor in Council, may, at any time refer to such Board, such questions as he may think fit, connected with the administration of the Civil Service in the matters of nomination, appointment, promotion or salary, or such enquiry or other questions connected with the efficiency and welfare of such service, and it shall be the duty of such Board to report for the consideration of the Government on every question so referred, and it shall have power and authority to summon and examine witnesses and to call for and obtain papers.
- Power to call witnesses.**

Oaths of Office, &c.

26. Immediately after the passing of this Act, the Deputy Heads of Departments and all Officers or Chief Clerks, Clerks and Messengers of the Civil Service shall take and subscribe before the Clerk of the Queen's Privy Council for Canada, the oath of Allegiance and that which is contained in Schedule B of this Act; and the Clerk of the Queen's Privy Council for Canada shall keep a register of such oaths, and every Deputy Head, Officer or Chief Clerk, Clerk or Messenger who shall hereafter be appointed, shall, before entering upon the duties of his office, take and subscribe the same oaths respectively.

Oath of allegiance to be taken by Officers, &c., in Civil Service.

27. In this Act the expression "Head of a Department" means the Minister of the Crown for the time being presiding over such Department.

Interpretation

28. This Act may be cited as "The Canada Civil Service Act, 1868."

Short title.

SCHEDULE A.

DEPUTY HEADS OF DEPARTMENTS.

Clerk of the Privy Council.
 Deputy of the Minister of Justice.
 Deputy of the Minister of Militia.
 Under Secretary of State for Canada.
Under Secretary of State for the Provinces.
Deputy Inspector-General.
 The Auditor General
 Deputy Receiver-General.
 Commissioner of Customs.
 Commissioner of Inland Revenue.
 Deputy of the Minister of Public Works.
 Deputy Postmaster-General.
 Deputy of the Minister of Agriculture.
 Deputy of the Minister of Marine and Fisheries.

By 33 V., c. 7, post, page 211, the office of Deputy Receiver-General is abolished, also the Auditor-General is declared to be the Deputy of the Minister of Finance.

By 36 V., c. 4, the Deputy of the Minister of the Interior is substituted for the Under Secretary of State for the Provinces.

By 37 V., c. 23, s. 2, the Deputy of the Minister of Marine and Fisheries "thereby" substituted for the "Secretary" of that Minister previously appointed by 31 V., c. 57, is declared to be the officer above described as Deputy of the said Minister.

SCHEDULE B.

“I, (A.B.,) solemnly and sincerely swear that I will faithfully
 “and honestly fulfil the duties which devolve upon me as
 and that I will not ask, or receive
 “any sum of money, services, recompense or matter or thing
 “whatsoever, directly or indirectly, in return for what I have done
 “or may do in the discharge of any of the duties of my said
 “office, except my salary or what may be allowed me by law or
 “by an Order of the Governor in Council.—So help me God.”

31 VICT. CAP. 30.

An Act respecting the commencement of certain Acts
 of this Session therein mentioned.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the
 Senate and House of Commons of Canada, enacts as
 follows :

Cap. 69, of
 this session to
 commence 1st
 July, 1868.

1. For and notwithstanding anything to the contrary contained in the Act of this present Session of Parliament, intituled : *An Act for the better security of the Crown and of the Government*, the said Act shall commence and take effect on the first day of July, in this year of our Lord one thousand eight hundred and sixty-eight.

The Act referred to in this section will be found post under Criminal Law.

Cap. 34, of this
 session to com-
 mence 1st July
 1868.

2. For and notwithstanding anything to the contrary contained in the Act of this present Session of Parliament, intituled : *An Act respecting the Civil Service of Canada*, the said last mentioned Act shall commence and take effect on the first day of July, in this year of our Lord one thousand eight hundred and sixty-eight.

35 VICT. CAP. 18.

An Act to amend the Act respecting the Civil Service
 of Canada.

[Assented to 14th June, 1872.]

Preamble.

IN amendment of the Act passed in the thirty-first year of
 31 Vict., c. 34. Her Majesty's reign, and intituled : “*An Act respecting the*

Civil Service of Canada ;” Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. Notwithstanding anything to the contrary in the said Act, a Third Class Clerk, or a Junior Second Class Clerk may, when the Governor in Council deems it to be for the advantage of the public service, and for sufficient reasons to be stated in an Order in Council to be made in that behalf,—be promoted to any other Class or Rank in the Civil Service, without having served as such Third Class Clerk or Junior Second Class Clerk for the period required by the said Act or for any other special period ; Provided that a copy of any Order in Council made under this Act, shall be laid before the Senate and House of Commons within the first ten days of the then next session of Parliament.

As to promotion from one class to another.

Proviso.

33 VICT. CAP. 4.

An Act for better ensuring the efficiency of the Civil Service of Canada, by providing for the Superannuation of persons employed therein, in certain cases.

[Assented to 12th May, 1870.]

WHEREAS, for better ensuring efficiency and economy in the Civil Service of Canada, it is expedient to provide for the retirement therefrom, on equitable terms, of persons, who, from age or infirmity cannot properly perform the duties assigned to them ; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Preamble.

1. The Governor in Council may grant to any person having served in an established capacity in the Civil Service for ten years or upwards, and having attained the age of sixty years, or being incapacitated by bodily infirmity from properly performing his duties, a superannuation allowance calculated on his average yearly salary during the then last three years, and not exceeding the following rates, that is to say :—If he has served for ten years, but less than eleven years, an annual allowance of ten-fiftieths of such average salary, and if for eleven years and under twelve years an annual allowance of eleven-fiftieths thereof, and in like manner a further addition of one-fiftieth of such average salary for each additional year of service up to thirty-five years, when an annual allowance of thirty-five fiftieths may be granted, but no addition shall be made for any service beyond thirty-five years ; If the service has not been continuous, the period or periods during which such service has been interrupted shall not be counted, and the Order in Council made in such case shall be laid before Parliament at its then or then next Session.

Conditions and rates of superannuation allowances.

If the service has not been continuous.

Persons entering the service after the usual time as having peculiar or professional qualifications.

2. The Governor in Council may, in the case of any person who entered the Civil Service after the age of *forty* years, as being possessed of some peculiar professional or other qualifications or attainments required for the office to which he was appointed, and not ordinarily to be acquired in the public service, add to the actual number of years service of such person, such further number not exceeding ten, as may be considered equitable, for reasons stated in the Order in Council made in the case; and such additional number of year shall be taken as part of the term of service on which the superannuation allowance of such person shall be computed, the Order in Council in any such case being laid before Parliament, at its then or then next Session.

By 38 V., c. 9, sec. 1, the word "thirty" is substituted for the word "forty" in the second line of this section.

Abatement on salaries towards making good such allowances.

3. Towards making good the superannuation allowances hereinbefore mentioned, an abatement shall be made from the salary of each person in the Civil Service to whom this Act will apply, at the rate of *four per cent.* per annum on such salary, if it be six hundred dollars or upwards, and of *two-and-a-half per cent.* per annum thereon, if it be less than Six hundred dollars, and the sum so deducted shall form part of the Consolidated Revenue Fund; but such abatement shall be made only during the first thirty-five years of service.

By 36 V., c. 32, sec. 1, the above section is amended, substituting "two per cent." for "four per cent.," and "one-and-a-quarter per cent." for "two-and-a-half per cent.," where they occur.

Diminution of allowance to persons who have not paid the abatement during less than ten years.

Exception.

4. The full superannuation allowance aforesaid shall only be granted to persons who have been subject to the said abatement during ten years or upwards; the superannuation allowance of any person who has not paid it, or has paid it for a less period, being subject to a *diminution of one twentieth* for every year less than ten during which he has not paid it, except that, in the case of any person retiring within three years after the passing of this Act, such diminution shall not exceed twenty per cent. of the allowance which might otherwise be granted to him, with power to the Governor in Council to reduce it to any amount not less than ten per cent.

And except also that the superannuation allowance of any person hereafter retiring, shall not be subject to any such diminution by reason of his not having paid the abatement hereinbefore mentioned, during any year or years after his first thirty-five years of service.

The above words were added to Section 4 by 36 V., c. 32, sec. 2, which also amended the same Section by substituting for the words "a diminution of one-twentieth" the words "a diminution of one per cent."

5. Retirement shall be compulsory on any person to whom the superannuation allowance hereinbefore mentioned shall be offered, and such offer shall not be considered as implying any censure upon the person to whom it is made; nor shall any person be considered as having any absolute right to such allowance, but it shall be granted only in consideration of good and faithful service during the time upon which it is calculated, and nothing herein contained shall be understood as impairing or affecting the right of the Governor to dismiss or remove any person from the Civil Service.

Effect of offer of allowance. Conditions on which granted, &c. Right of removal reserved.

6. If any person to whom the foregoing enactments apply, is constrained from any infirmity of mind or body to quit the Civil Service before the period at which a superannuation allowance might be granted him, the Governor in Council may allow him a gratuity not exceeding one month's pay for each year of his service; and if any such person is so constrained to quit the service before such period, by reason of severe bodily injury received without his own fault in the discharge of his public duty, the Governor in Council may allow him a gratuity not exceeding three months' pay for every two years service, or a superannuation allowance not exceeding one-fifth of his average salary during the then last three years.

Gratuity to persons leaving the service before they can have a retiring allowance.

By 33 V., c. 9, sec. 2, post, page 209, the following provision is to be added to and form part of this Section.

"And if the Head of a Department reports with respect to any person employed in his Department, and about to be superannuated, from any cause other than that of ill health or age, that the service of such person has not been satisfactory, the Governor in Council may grant such person a superannuation allowance being less than that to which he would have otherwise been entitled, as to him may seem fit."

7. If any person to whom the foregoing enactments apply, is removed from office in consequence of the abolition thereof, in order to the improvement of the organization of the department to which he belongs, or otherwise to promote efficiency or economy in the Civil Service, the Governor in Council may grant him such gratuity or superannuation allowance, as will fairly compensate him for his loss of office, not exceeding such as he would have been entitled to if he had retired in consequence of permanent infirmity of body or mind, after adding ten years to his actual term of service.

Provision for persons removed by reason of abolition of office, &c.

8. Any person receiving a superannuation allowance, and being under the age of sixty years, and not disabled by bodily or mental infirmity shall be liable to be called upon to fill, in any part of Canada, any public office or situation for which his previous services render him eligible, and not lower in rank or emolument than that from which he retired; and if he refuse or neglect so to do, he shall forfeit his said allowance.

Persons under 60, and receiving allowance, may be called upon to serve again.

To whom this
Act shall
apply.

9. The foregoing enactments shall apply to officers, clerks and other persons employed in any of the departments mentioned in the Canada Civil Service Act, 1868, and as well to persons employed at the seat of Government as in the outside service of the said departments, and to the permanent officers and servants of the Senate and House of Commons; who for the purposes of this Act shall be held to be the Civil Service of Canada, saving always all legal rights and privileges of either House, as respects the appointment or removal of its officers and servants, or any of them; and service in an established capacity in any of the public departments of the Government or offices of the Legislature of any of the Provinces now included in the Dominion of Canada, before the coming in force of the British North America Act, 1867, by any person who has thereafter entered the Civil Service of Canada, shall be reckoned in computing his period of service for the purposes of this Act: and, in any case of doubt, the Governor in Council may, by general or special regulation, determine to what persons the provisions of this Act, do or do not apply, and the conditions on which, and the manner in which, they shall apply in any case or class of cases.

Power of
Governor in
Council in
that behalf.

Allowances,
&c., how
payable.

10. The allowances and gratuities granted under this Act, shall be payable out of the Consolidated Revenue Fund of Canada.

Yearly return
to Parliament.

11. A statement of all allowances and gratuities granted under this Act, and of all moneys paid for the same, shall be laid before Parliament within the first fifteen days of the Session thereof next after such grant or payment.

36 VICT. CAP. 32.

An Act to amend the Civil Service Superannuation Act.

[Assented to 23rd May, 1873.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

S. 3 of 33 V.,
c. 4, amended.

1. The third section of the Act passed in the thirty-third year of Her Majesty's reign, and intituled, "*An Act for better insuring the efficiency of the Civil Service of Canada, by providing for the Superannuation of persons employed therein, in certain cases,*" is hereby amended by substituting the words "two per cent." for the words "four per cent.," and the words "one and a quarter per cent." for the words "two and a half per cent.," where they occur in the said section.

2. The fourth section of the said Act is hereby amended by substituting for the words "a diminution of one twentieth," the words "a diminution of one per cent.,"—and by inserting, at the end of the said section, the words, "and except also, that the superannuation allowance of any person hereafter retiring, shall not be subject to any such diminution by reason of his not having paid the abatement hereinbefore mentioned, during any year or years after his first thirty-five years of service."

Section 4
amended.

38 VICT. CAP. 9.

An Act further to amend the Civil Service Superannuation Act.

[Assented to 8th April, 1875.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Preamble.

1. The second section of the Act passed in the thirty-third year of Her Majesty's reign and intituled "*An Act for better ensuring the efficiency of the Civil Service of Canada by providing for the Superannuation of persons employed therein in certain cases,*" is hereby amended by substituting the word "thirty" in place of the word "forty" in the second line of the said second section.

Sec. 2 of 38
V., c. 4.,
amended.

2. The following provision shall be added to and form part of the sixth Section of the said Act :—

Provision
added to s. 6.

"And if the Head of a Department reports with respect to any person employed in his Department, and about to be superannuated, from any cause other than that of ill health or age, that the service of such person has not been satisfactory, the Governor in Council may grant such person a superannuation allowance being less than that to which he would have otherwise been entitled, as to him may seem fit."

Reduced
allowance for
unsatisfac-
tory service.

3. And whereas by an Act passed in the thirty-sixth year of Her Majesty's reign and intituled "*An Act to amend the Civil Service Superannuation Act,*" certain amendments were made to the Act firstly hereinbefore mentioned by which the rules under which superannuation allowances are to be calculated under the Act firstly hereinbefore mentioned are amended, it is hereby further enacted : That all superannuation allowances granted prior to the passing of the secondly above mentioned Act, shall be revised as if the same had been granted under the said Act, and that all payments falling due on such superannuation allowances after the first day of July, in the year 1875, shall be paid in accordance with the revised amount of such allowances.

36 V., c. 32,
cited.

Superannua-
tion allow-
ances granted
before the
said Act to be
revised
according
to it.

TITLE V.

PUBLIC DEPARTMENTS, REVENUE
AND PROPERTY.

1. FINANCE.

32-33 VICT. CAP. 4.

An Act respecting the Department of Finance.

[Assented to 22nd June, 1869.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Department constituted.

1. There shall be a Department of the Civil Service of Canada, to be called "The Department of Finance," over which the Minister of Finance for the time being, appointed by the Governor by Commission under the Great Seal of the Dominion, shall preside; and the said Minister shall hold office during pleasure, and shall have the management and direction of the Department.

Its duties.

2. The Department of Finance shall have the supervision, control, and direction of all matters relating to the Financial Affairs and Public Accounts, Revenue and Expenditure of the Dominion, which are not, or in so far as they are not, by law, or by order of the Governor in Council, assigned to any other Department of the Civil Service, and such other duties as may from time to time be assigned to it by the Governor in Council.

Audit Branch.

3. The Auditor General and the *Deputy Inspector General* shall be officers of the Finance Department, and the Board of Audit shall (as by law provided) perform its duties under the supervision and direction of the Minister of Finance, and all officers and clerks of and in the Department of Finance shall respectively have and perform such duties as are or may be hereafter assigned to them by law, or by order of the Governor in Council, or by the Minister of Finance: and such arrangements, and distribution or union of the various duties, functions and

Further distribution of business may be made.

business devolving on the several branches of the said department, or such amalgamation thereof or of any of them, may be made, as the Minister of Finance with the approval of the Governor in Council may from time to time direct.

By 33 V., c. 7, see infra, so much of this Act as provides for the appointment of a Deputy Inspector General is repealed and the Auditor-General is appointed Deputy Head of the Department.

4. There shall be a Board to be called the "The Treasury Board," which shall consist of the Minister of Finance, the Receiver General, the Minister of Customs and the Minister of Inland Revenue, and shall act as a Committee of the Queen's Privy Council for Canada, on all matters relating to Finance, Revenue and Expenditure, or Public Accounts, which may be referred to it by the Council, or to which the Board may think it necessary to call the attention of the Council, and shall have power to require from any public department, board or officer, or other person or party bound by law to furnish the same to the Government any account, return, statement, document, or information which the Board may deem requisite for the due performance of its duties: and there shall be a Secretary to the Board to be appointed from time to time by the Governor during pleasure, and through whom the Board shall communicate with any Public Department, or officer, or other person or party; and such Secretary may or may not, as to the Governor may seem fit, hold any other office in the Civil Service.

Treasury Board, its constitution and duties.

Secretary.

5. So much of any Act or law as may be inconsistent with this Act, or makes any provision in any matter provided for by this Act other than such as is hereby made, is repealed.

Repeal of inconsistent enactments.

33 VICT. CAP. 7.

An Act to amend the Law respecting the Department of Finance.

[Assented to 12th May, 1870.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons, enacts as follows:—

1. The office of Deputy Inspector General is hereby abolished, and so much of the Canada Civil Service Act, 1868, or of the Act respecting the Department of Finance, as provides for the appointment of any such officer, or assigns any power or duty

Office of Deputy Inspector General abolished.

Provide.

to him, is hereby repealed; and the Auditor-General shall be the Deputy Minister of Finance and the Deputy Head of the Department: Provided that the present incumbent of the office of Deputy Inspector General shall retain his title of office and rank, so long as he remains an officer of the Department.

31 VICT. CAP. 32.

An Act respecting the Consolidated Revenue Fund.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:

What moneys
shall form part
of the said
Fund.

1. All Duties and Revenue over which the respective Legislatures of the late Province of Canada, Nova Scotia and New Brunswick, before and at the time of the passing of the British North America Act, 1867, had, and over which the Parliament of Canada now has the power of appropriation, shall form and are hereby declared to have formed since the Union, one Consolidated Revenue Fund to be appropriated for the public service of Canada, in the manner and subject to the charges hereinafter mentioned, and in the following order, that is to say:

Charges
thereon.

First.
Collection, &c.

Firstly.—The costs, charges and expenses incident to the collection, management and receipt thereof, subject to be reviewed and audited in such manner as is now or may hereafter be by law provided;

Second.
Public debt.

Secondly.—The annual interest of the Public Debts of the several Provinces of Canada, Nova Scotia and New Brunswick, at the Union;

Third.

Thirdly.—The Salary of the Governor-General:

Fourth.
Intercolonial
Railway.

Fourthly.—The Principal and Interest at a rate not exceeding four per cent. per annum of the Loan of three million pounds sterling, to be raised for the purpose of constructing the Intercolonial Railway, under the provisions of an Act of the present Session of the Parliament of Canada, chapter thirteen, upon the guarantee of the payment of interest on such loan at a rate not exceeding four per centum per annum by the Commissioners of Her Majesty's Treasury, or the principal and interest at a like rate of such part of the said loan as may be raised;

Fifthly.—An annual sum at the rate of one per centum per annum, as a Sinking Fund on the entire amount of principal money of the loan herein last before mentioned; Fifth.
Sinking Fund.

Sixthly.—Any sum which shall be issued out of the Consolidated Fund of the United Kingdom under the Canada Railway Loan Act, 1867, with the interest thereon at the rate of five per centum per annum; Sixth.
Advance for same.

Seventhly.—The sum of one million pounds sterling, which, by the thirty-second section of the Act of the present session of the Parliament of Canada, chapter thirteen, the Government of Canada is empowered to raise for the completion of the Intercolonial Railway, but without the guarantee of the Commissioners of Her Majesty's Treasury, and interest thereon. Seventh.
Loan for same.

2. The Governor in Council may, from time to time, make such regulations as he deems necessary for the management of the Public Debt of the Dominion and the payment of the interest thereon, and may provide for the creation and management of a Sinking Fund or other means of securing the re-payment of any loans that may be raised under the authority of Parliament, and may appoint one or more fiscal agents of the Dominion in the City of London or elsewhere, and agree with them as to the rate of compensation to be allowed them for negotiating loans and for paying the interest on the Public Debt, and for other services connected with the management of the said debt, and may pay the sums necessary to provide such Sinking Fund or other means as aforesaid, and such compensation, out of the Consolidated Revenue Fund. Governor in Council to make regulations as to the debt and payment of interest.

Fiscal agent, &c.

3. The Grants payable to the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, under the one hundred and eighteenth section of the British North America Act, 1867, and the allowance payable to New Brunswick under the one hundred and nineteenth section of the said Act, shall be charged upon the Consolidated Revenue Fund of Canada, and payable out of any unappropriated moneys forming part thereof. Grants to the Provinces to be a charge on the Fund.

4. The Public Accounts of the Dominion shall be kept by double entry in the Offices of the Receiver-General and of the Minister of Finance; and an annual statement shall be prepared as soon as possible after the termination of each fiscal year, exhibiting the state of the Public Debt and the amount chargeable against each of the Public Works for which any part of the debt has been contracted; also the state of the Consolidated Revenue Fund and of the various Trusts and special Funds under the management of the Government of the Dominion, and such other accounts and matters as may be required to shew what the liabilities and assets of the Dominion really are at the date of such statement. Public accounts how to be kept.

Annual statement and what it shall shew.

36 VICT. CAP. 30.

An Act to re-adjust the amounts payable to and chargeable against the several Provinces of Canada by the Dominion Government, so far as they depend on the debt with which they respectively entered the Union.

[Assented to 23rd May, 1873.]

Preamble.

WHEREAS by the provisions of "*The British North America Act, 1867*," and by the terms and conditions under which the Provinces of British Columbia and Manitoba were admitted into the Dominion, Canada became liable for the debts and liabilities of each Province, existing at the time of its becoming part of the Dominion, subject to the provision that each Province should, in account with Canada, be charged with interest at the rate of five per cent. per annum on the amount by which its said debts and liabilities exceeded, or should receive interest at the same rate by half yearly payments in advance, on the amount by which its said debts and liabilities fell short of, certain fixed amounts ;

And whereas the amount fixed as aforesaid in the case of the Provinces of Ontario and Quebec, conjointly (as having theretofore formed the Province of Canada), was sixty-two million five hundred thousand dollars (\$62,500,000), and the debt of the said late Province, as now ascertained, exceeded the said sum by ten million five hundred and six thousand and eighty-eight dollars and eighty-four cents (\$10,506,088.84) for the interest as aforesaid on which the said two Provinces were chargeable in account with Canada ;

And whereas it is expedient to relieve the said Provinces of Ontario and Quebec from the said charge, and for that purpose hereafter to consider the fixed amount in their case as increased by the said sum of ten million five hundred and six thousand and eighty-eight dollars and eighty-four cents ; and to compensate the other Provinces for this addition to the general debt of Canada : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Increase of the sum fixed by B. N. A. Act, as to Quebec and Ontario ; and as to other Provinces in same proportion.

1. In the accounts between the several Provinces of Canada and the Dominion, the amounts payable to and chargeable against the said Provinces respectively, in so far as they depend on the amount of debt with which each Province entered the Union, shall be calculated and allowed as if the sum fixed by the one hundred and twelfth section of "*The British North America Act, 1867*," were, increased from sixty-two million five hundred thousand dollars, to the sum of seventy-three million,

six thousand and eighty-eight dollars and eighty-four cents, and as if the amounts fixed as aforesaid, as respects the Provinces of Nova Scotia and New Brunswick, by "*The British North America Act, 1867*," and as respects the Provinces of British Columbia and Manitoba by the terms and conditions on which they were admitted into the Dominion, were increased in the same proportion.

2. The subsidies to the several Provinces, in July, one thousand eight hundred and seventy-three, shall be paid in accordance with the foregoing provisions of this Act. Subsidies in July, 1873.

3. All sums payable under this Act shall be a charge upon and payable out of the Consolidated Revenue Fund of Canada, and accounted for in like manner as other moneys payable for like purposes out of the same. Sums under this Act how paid and accounted for.

37 VICT. CAP. 3

An Act to declare the intention of the Act thirty-sixth Victoria, chapter thirty, as regards the subsidy to be allowed to Nova Scotia.

[Assented to 26th May, 1874.]

WHEREAS doubts have arisen under the first section of the Act thirty-sixth Victoria, chapter thirty, intituled "*An Act to re-adjust the amounts payable to, and chargeable against the several Provinces of Canada, by the Dominion Government, so far as they depend on the debt with which they respectively entered the Union*," as to whether the increased subsidy to be allowed to the Province of Nova Scotia under the said Act should be based on the sum of eight million dollars mentioned in the one hundred and fourteenth section of "*The British North America Act, 1867*," or on the sum of nine million, one hundred and eighty-six thousand, seven hundred and fifty-six dollars, to which the said sum of eight million dollars was increased by the Act thirty-second and thirty-third Victoria, chapter two, intituled "*An Act respecting Nova Scotia*;" For the removal of such doubts, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

Preamble.
36 V., c. 30,
cited.
32-33 V., c. 2.

1. It was and is the intention of the Act first above mentioned (thirty-sixth Victoria, chapter thirty) that the increased subsidy to be allowed to the Province of Nova Scotia under the Intention of 36 V., c. 30, declared.

said Act, should be based upon the said sum of nine million, one hundred and eighty-six thousand, seven hundred and fifty-six dollars, as if that sum had been mentioned in the one hundred and fourteenth section of "*The British North America Act, 1867*," instead of the said sum of eight million dollars.

35 VICT. CAP. 6.

An Act respecting the Public Debt and the raising of Loans authorized by Parliament.

[Assented to 14th June, 1872.]

Preamble.

WHEREAS it is expedient to amend and consolidate the enactments now in force respecting the Public Debt and the raising of Loans authorized by Parliament, and so to avoid the necessity of inserting any such provisions in the annual Bills of Supply: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

How loans, &c., authorized by Parliament may be raised.

1. Whenever in any Act passed in any former session, or in the present or any future session of the Dominion Parliament, authority is given to the Governor in Council to raise, by way of loan, any sum of money for the public service, or the security of the Dominion is authorized to be given for any sum of money deposited in any Government Savings Bank, or otherwise entrusted for safe keeping to the Dominion Government, then unless there be some provision to the contrary in the Act by which such authority as aforesaid is given, such sum shall, in the discretion of the Governor in Council, be raised or such security given, in one of the following ways, or partly in one and partly in another or others thereof, that is to say:

By issue of debentures.

1. By the issue and sale, or the delivery as such security, of debentures of the Dominion, which shall be in such form, for such separate sums, and at such rate of interest not exceeding six per centum per annum, and the principal and interest whereof shall be made payable at such periods and places, as the Governor in Council may deem most expedient, and subject to such regulations as he may see fit to make, and such principal and interest shall be chargeable on the Consolidated Revenue Fund.

By issue of Dominion stock.

2. By the issue and sale, or the delivery as such security, of "Canada Dominion Stock," bearing such rate of interest not

exceeding six per cent. per annum as may be deemed most advisable, payable half yearly, and the principal and interest whereof shall be chargeable on the Consolidated Revenue Fund, such stock not to be redeemable until the time to be fixed by the regulations hereinafter mentioned, but at and after that time to be redeemable at the option of the Governor in Council on giving six months' notice of such redemption, and to be subject to such regulations as to the inscription, transfer, management, and redemption thereof, as the Governor in Council may see fit to make.

3. On authorizing the issuing of Debentures or Stock under the two next preceding sub-sections, the Governor in Council may provide for a Special Sinking Fund with respect to such issue, and may at any time provide for a General Sinking Fund for all such portions of the Debentures or Stock of the Dominion as may have been or may be hereafter issued without provision for a Sinking Fund with respect to them: Provided that the amount to be invested in any such Sinking Fund shall not exceed one half of one per cent. per annum on the amount of the Debentures or Stock to which it relates.

Governor in Council may provide a sinking fund, general or special.

Proviso.

4. By the granting of terminable annuities chargeable on the Consolidated Revenue Fund, such annuities being granted on terms in accordance with the most approved English Tables, and based on a rate of interest not exceeding six per cent. per annum, and subject to such regulations as the Governor in Council may see fit to make.

By grant of terminable annuities

5. By the issue and sale, from time to time, of Exchequer Bills or Exchequer Bonds, in sums of not less than four hundred dollars, and bearing such rate of interest not exceeding six per cent. per annum, and redeemable at such periods and places, and in such form, as the Governor in Council may deem most advisable, and subject to such regulations as he may see fit to make.

By issue of exchequer bills or bonds.

2. The Governor in Council may, from time to time, as the interests of the public service require, change the form of any part of the then existing Funded Debt of the Dominion, including any debentures for which the Dominion is liable, by substituting one class of the securities aforesaid for another, or for such debentures, provided that neither the capital of the debt, nor the annual charge for interest be thereby increased, except only in any case where *five per cent. Dominion stock* or debentures is or are substituted for securities bearing a higher rate of interest, in which case only the amount of the capital may be increased by an amount not exceeding the difference between the then present value of the security bearing the higher interest and that of the *five per cent. stock* or debentures substituted for it; but no such substitution shall be made, unless the consent of the holder of the security for which another is substi-

Governor in Council may change the form of any part of funded debt, and on what conditions.

tuted be obtained, or such security be previously purchased or redeemed by or on account of the Dominion, and such substitution may be made by the sale of the one class of securities and the purchase of those for which it is desired to substitute them.

By 38 V., c. 4, sec. 1, see next page, the words "four per cent. Dominion Stock" or "are inserted before the words "five per cent. Dominion Stock," and the words "four per cent. stock or" before the words five per cent. stock."

May raise temporary loans in certain cases of exigence.

Proviso.

Accounts to Parliament.

3. The Governor in Council may, from time to time, as the exigencies of the public service require, in the event of the Consolidated Revenue Fund being at any time insufficient to meet the charges placed thereon by law, direct the proper officer to raise, by temporary loans chargeable on the said Fund, in such manner and form, in such amounts, for such periods not exceeding six months, at rates of interest not exceeding seven per cent. per annum, as the Governor in Council may direct, such sums as may be necessary to enable the said Fund to meet such charges, but the sums to be so raised shall never exceed the amount of the deficiencies in the Consolidated Revenue Fund to meet the charges thereon then due or payable either as principal or interest, and shall be applied to no other purpose whatever; and an account in detail of all such temporary loans shall be laid before the House of Commons within the first fifteen days of the Session then next ensuing.

Certain regulations made by Governor in Council to have force of law.

Officers not bound to see to trusts.

4. The regulations made or to be made by the Governor in Council, as to the inscription, transfer, management and redemption of any Canada Dominion Stock, Debentures, or other Dominion securities above mentioned, under this or any other Act, shall, in so far as they are not inconsistent with the Act under which they are made, have the same force and effect as if embodied and enacted in an Act of the Dominion Parliament; and no officer of the Dominion Government employed in the inscription, transfer, management or redemption of any such stock or securities, or in the payment of any dividend or interest thereon, shall be bound to see to the execution of any trust expressed or implied to which such stock or securities may be subject, or shall be liable in any way to any person or party for anything by him done as such officer, in accordance with any such regulation as aforesaid.

Act respecting Dominion notes not affected.

Public debt not to be increased except as provided in section 2.

5. Nothing in this Act shall be construed as altering or affecting the provisions of the Acts respecting Dominion Notes, or the debentures to be issued and held for securing the redemption of such notes, or in any way to authorize any increase of the public debt without the express authority of Parliament, except only in the manner and to the extent hereinbefore provided in case of the substitution of *five per cent. Dominion stock* for other securities.

The words "four per cent. Dominion stock or" are inserted before the words "five per cent. Dominion stock" by 38 V., c. 4. (See infra.)

6. Nothing in this Act shall be construed as altering or affecting in any way the order of priority and rank of the present charges on the Consolidated Revenue Fund, or any enactment providing for the establishment of any Sinking Fund.

Charges on Con. Rev. Fund not affected nor any sinking fund.

7. So much of any Act as may be inconsistent with this Act, or as makes other provision than is hereby made as to any matter provided for by this Act, is hereby repealed, except only as to things lawfully done before the passing of this Act, but no other provision in any Act shall be repealed or affected by this Act.

Repeal of inconsistent enactments.

38 VICT. CAP. 4.

An Act to amend the Act respecting the Public Debt, and the raising of Loans authorized by Parliament.

[Assented to 8th April, 1875.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The Governor in Council may authorize the creation, issue and sale of Dominion Stock, bearing interest at the rate of four per centum per annum, under the same provisions under which he may authorize the creation, issue and sale of such stock bearing interest at the rate of five per centum per annum; and wherever in the Act, thirty-fifth Victoria, chapter six, cited in the title of this Act, the words "five per cent. Dominion Stock," or the words "five per cent. Stock," occur, the words "four per cent. Dominion Stock, or" or "four per cent. Stock, or" shall be understood as inserted before them respectively, and the provisions of the said Act shall apply equally to Dominion Stock bearing either rate of interest.

Four per cent. stock authorized. Act 35 V., c. 6, amended.

31 VICT. CAP. 5.

An Act respecting the collection and management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants.

[Assented to 21st December, 1867.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

PRELIMINARY—INTERPRETATION.

Interpretation. **1.** In this Act, the words “Public Revenue” or “Revenue,” mean and include and apply to all Revenue of the Dominion of Canada, and all branches thereof, and all public moneys, whether arising from duties of Customs or other duties,—or from the Post Office,—or from Tolls for the use of any Canal, Railway, or other public work,—or from penalties or forfeitures,—or from any rents or dues,—or any other source whatsoever,—whether such moneys belong to the Dominion or are collected by officers of the Dominion for or on account of or in trust for any Province forming part of the Dominion, or for the Imperial Government, or for any other party :

Who shall be subject to this Act.

2. And any officer, functionary or person whose duty it is or has been to receive any moneys forming part of the Revenue, or who is or has been entrusted with the custody or expenditure of any such moneys, whether before or after the Union of the Provinces now forming the Dominion of Canada, —although he may not be or have been regularly employed in collecting, managing or accounting for the same,—shall be subject to the provisions of this Act, so far as regards the accounting for and paying over such moneys, whatever be the office or employment by virtue of which he receives or has received, or is or was entrusted with the same.

COLLECTION AND MANAGEMENT OF THE REVENUE.

Governor to determine what officers are necessary, &c.

2. The Governor in Council may from time to time determine what officers or persons it is necessary to employ in collecting, managing or accounting for the Revenue, and in carrying into effect the laws thereunto relating, or for preventing any contravention of such laws, and may assign their names of office, and such salaries or pay for their labour and responsibility in the execution of the duties of their respective offices and employments, as to the said Governor in Council seems reasonable and necessary, and may appoint the times and manner in which the same shall be paid ; But no such officer so appointed shall receive a higher annual salary than is allowed

Provido as to salaries.

in his case by any Act of the Parliament of Canada, respecting the Civil Service generally, then in force, nor shall any such salary be paid until voted by Parliament.

3. The salary or pay allowed to any such officer or person as aforesaid shall be in lieu of all fees, allowances or emoluments of any kind whatsoever, except actual and authorized disbursements, shares of seizures, forfeitures and penalties; And no such officer or person, receiving a salary at or exceeding the rate of one thousand dollars per annum, shall exercise any other calling, profession, trade or employment whatsoever, with a view to derive profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except in either case, with the express permission of the Governor-General in Council.

No fees allowed.

Officers to give their whole time.

Exception.

4. No officer or person regularly employed in the collection or management of the Revenue, or in accounting for the same, shall, while he remains such officer or so employed, be compelled to serve in any other public office or in any municipal or local office, or on any jury or inquest, or in the militia.

Exemption from certain services.

5. Every person appointed to any office or employment relative to the collection or management of the Revenue, or in accounting for the same, shall, at his admission to such office or employment, take the following oath, before such officer as the Governor may appoint to receive the same, that is to say:

Oath of office.

“I, A. B., do swear to be true and faithful in the execution, Form.
 “to the best of my knowledge and power, of the trust committed
 “to my charge, by my appointment as _____, and
 “that I will not require, take or receive any fee, perquisite,
 “gratuity or reward, or emolument whether pecuniary or of any
 “other sort or description whatever, either directly or indirectly
 “for any service, act, duty, matter or thing done or performed or
 “to be done or performed in the execution or discharge of any
 “of the duties of my said office or employment, on any account
 “whatever, other than my salary, or what shall be allowed me
 “by law, or by order of the Governor of this Dominion in Council.—So help me God.”

6. The Governor in Council may, from time to time, make all such divisions of the Dominion into ports, revenue districts or otherwise, as may be required with regard to the collection or management of the Revenue—and may assign the officers or persons by whom any duty or service relative to any such purpose shall be performed within or for any such district or division, and the place or places within the same, where such duty or service shall be performed—and may make all such regulations concerning such officers and persons, and the conduct and management of the business to them entrusted, as are consistent with the law, and as he deems expedient for

Governor in Council to divide Canada into Ports, districts, &c., for Revenue purposes and make regulations.

carrying it into effect, in the manner best adapted to promote the public good; and any general regulation or order made by the Governor in Council for any purpose whatever for which an order or regulation may be so made under the provisions of this Act, shall apply to each particular case within the intent and meaning of such general regulation or order, as fully and effectually as if the same had been made with reference to such particular case, and the officers, functionaries or parties concerned had been specially named therein.

Proof of Regulations.

2. A printed copy of any regulation or order of the Governor in Council, printed by the Queen's Printer, or written copy thereof attested by the signature of the Clerk of the Queen's Privy Council for Canada, shall be evidence of such regulation or order; And any order in writing, signed by the Secretary of State for Canada, and purporting to be written by command of the Governor, shall be received in evidence as the order of the Governor.

Officers employed to be deemed the proper officers.

7. Every person employed on any duty or service relating to the collection or management of the Revenue, by the orders or with the concurrence of the Governor in Council, shall be deemed to be the proper officer for that duty or service; And every act, matter or thing required by any law in force to be done or performed by, to, or with any particular officer nominated for that purpose in such law being done or performed by, to, or with any person appointed or authorised by the Governor in Council to act for or in behalf of such particular officer, shall be deemed to be done or performed by, to or with such particular officer.

As to place at which any duty is to be performed.

2. And every act, matter or thing required by any law at any time in force, to be done or performed at any particular place within any port, or within any other such district or division of the Dominion as aforesaid, being done or performed at any place within such port, district or division, appointed by the Governor in Council, for such purpose, shall be deemed to be done or performed at the particular place so required by law.

Officers of one service may be employed in another.

8. Any officer or person employed in the collection, management or accounting for any branch of the Revenue, may be employed in the collection, management or accounting for any other branch thereof, whenever it is deemed advantageous for the public service so to employ him.

Hours of office &c.

9. The Governor in Council may, from time to time, appoint the hours of general attendance of the officers and persons employed in the collection and management of the Revenue, at their proper offices and places of employment,—and may also appoint the times during such hours, or the seasons of year,

at which any particular portions of the duties of such officers or other persons shall be performed by them respectively; And a notice of the hours of general attendance so appointed shall be kept constantly posted up in some conspicuous place in such offices and places of employment.

10. No day shall be kept as a public holiday by the officers Holidays. and persons employed in the collection and management of the Revenue, except Christmas day, New Year's day and Good Friday in every year,—any day appointed by Proclamation of the Governor for the purpose of a general fast, or of a general thanksgiving,—such days as are appointed for the celebration of the birth-day of Her Majesty and Her Royal Successors,—and such other days as may be from time to time appointed as holidays by the Governor in Council.

11. The Governor in Council may direct any officer or Accounts for statistical purposes. person employed in collecting, managing or accounting for any branch of the Revenue, to keep any books or accounts which he deems it advisable to direct to be kept for the purpose of obtaining any statistical information concerning the trade or commerce of the Dominion, the public works thereof, or other matters of public interest, and may authorise and allow any necessary expense incurred for such purpose.

12. All public moneys, from whatever source of revenue Paying over public money. derived,—shall be paid to the credit of the Receiver-General through such officers, banks or parties, and in such manner, as the Governor in Council may from time to time direct and appoint.

13. The Governor in Council may, from time to time, ap- Time and mode of so paying. point the times and mode in which any officer or person employed in the collection, management of, or the accounting for any part of the Revenue shall account for and pay over the public moneys which come into his hands,—and may determine the times, manner and form in which, and the officer by whom, any Licenses on which any duty is payable, are to be issued;—Provided that such accounts and payments shall be rendered and made by such officers and persons respectively at least once in every three months.

14. Every Officer of the Customs or of Inland Revenue or Payment into Banks. Excise, or otherwise employed in the Collection of the Revenue, receiving money for the Crown, shall deposit the same in his name of office, from time to time, in such Bank as the Governor in Council may appoint,—and no money so deposited shall be paid out again, except for the purpose of being placed to the credit of the Receiver-General, on the written order or check of the officer so depositing, or his successor, to whom the Bank shall grant a certificate, in duplicate of its being so credited; And every such Officer shall

Cash-books. keep his Cash-book written up daily; and all the books, accounts and papers of such officer shall at all times during office hours be open to the inspection and examination of any officer or person whom the Minister of Finance may authorize to inspect or examine the same; Provided, that where such money is received at a place where there is no Bank into which it can conveniently be paid, the Governor in Council may direct it to be paid over in such manner as he may deem expedient.

Proviso.
Where there
is no Bank.

How public
money shall be
paid out.

15. The expenditure of moneys out of the Public Chest shall always be made by check on some Bank, upon the warrant of the Governor in Council, such check being signed by the Receiver-General and countersigned by the Minister of Finance or their respective deputies thereunto duly authorized.

BOARD OF AUDIT, AND ITS POWERS AND DUTIES.

Appointment
of Board, &c.

16. The Governor may, by Letters Patent under the Great Seal of Canada, constitute and appoint, during pleasure, a Board of Audit, whose duty it shall be, under the direction and supervision of the Minister of Finance, from time to time to report on any Accounts laid before the said Board, as hereinafter provided.

Of whom to
consist

17. The said Board shall consist of the *Deputy Inspector-General*, the Deputy Postmaster General, the Commissioner of Customs, the Commissioner of Inland Revenue, the Deputy Receiver-General, the Deputy of the Minister of Public Works, the Deputy of the Minister of Militia, the Deputy of the Minister of Marine and Fisheries, and an Auditor to be appointed by the Governor, who shall be the Chairman of the Board.

The office of Deputy Inspector-General is abolished by 33 V., c. 7, sec. 1.

Duties of
Commissioners
of Customs
and Inland
Revenue.

18. It shall be the duty of the Commissioner of Customs, as a member of the Board of Audit, to examine and check the Returns of the Officers of Customs, and their accounts of expenses of collection and contingencies; and it shall be the duty of the Commissioner of Inland Revenue, as a member of the Board, to examine and check the Returns of the officers of Inland Revenue and Excise, and their accounts of expenses of collection and management.

Of certain
other Deputy
Heads of
Departments.

19. The Deputy Postmaster General, the Deputy of the Minister of Public Works, the Deputy of the Minister of Militia, and the Deputy of the Minister of Marine and Fisheries, shall respectively audit the details of the accounts of their several departments in the first instance, and be responsible for the correctness of such Audit.

20. The Deputy Receiver General shall keep the account Of Deputy Receiver-General with the Financial Agents of the Dominion in England, and with the Bank or Banks receiving or paying public moneys, and shall audit the accounts of moneys paid for interest on Canadian Stock, Debentures or other Canadian Securities.

21. It shall be the duty of the *Deputy Inspector-General* to Of Deputy-Inspector-General, prepare all Money Warrants on the Certificate of the Auditor—to countersign all Canadian Debentures, Receiver-General's Cheques and Receipts,—to keep a Debenture Book, which shall contain a record and description of all Debentures outstanding or to be issued, shewing the date of issue, period of redemption, when cancelled, and payment of interest, and also a Register of Provincial Notes or Notes of the Dominion issued or cancelled,—and an Interest Account ;—to classify all appropriations of Public Moneys and keep posted up a Book to be called The Appropriation Book, containing an account, under separate and distinct heads, of every such appropriation, whether permanent or temporary, entering under each head the amounts drawn on account of such appropriation, with the dates and names of the parties to whom Warrants are issued,—to examine and audit the accounts current of the Officers of Customs and Inland Revenue or Excise,—and to keep the Public Accounts of the Dominion.

The office of the Deputy Inspector-General is abolished by 33 V., c. 7.

22. It shall be the duty of the Auditor to examine, check Duties of Auditor as to accounts, and audit all other Accounts of the Receipt and Expenditure of Public Moneys, whether appertaining to the Dominion of Canada, or received or expended by the Dominion on account of or in trust for any other party or parties ; and all Receipts and Expenditure which by the foregoing sections are required to be primarily audited by other Members of the Board of Audit shall nevertheless be submitted to the Auditor for final audit, and Review :—

2. He shall also keep a Register of Bank Notes issued and securities held under the provisions of the Free Banking Act of the late Province of Canada ; and all Returns and Statements required from Savings Banks, Chartered or other Banks, and all other Institutions required by law to make financial Statements or Returns, shall be transmitted to him. Register of Bank Notes, &c.

23. In case of any difference of opinion between the Auditor and any other Member of the Board on any point connected with the Accounts of the Department in charge of such other Member, the matter shall be submitted to the Board ; and nothing herein contained shall prevent any member from bringing any question of audit before the Board although it may not relate to the Department under his charge. Case of difference of opinion of Auditor and any other member.

Reports to
Minister of
Finance.

2. Upon all matters of importance the Board shall report to the Minister of Finance, and no decision of the Board shall be binding until it has been approved by him; and when any such report is made, any Member of the Board may record his dissent on the minutes and may submit to the Minister of Finance a minority report.

Cancelling
debentures
redeemed.

24. It shall also be the duty of the said Board to examine and cancel debentures redeemed; the Board shall meet at least once in each month for the purposes of this Act, and the Auditor may call an extra meeting of the Board on the requisition of any member thereof.

Case of absence
of members
provided for.

25. The Governor may, in case of the illness or absence of any Member of the Board, authorize any officer of the same department to perform all or any of the duties of the absent member as such.

Board to frame
system of
book-keeping
to be used in
departments,
etc.

26. It shall be the duty of the Board of Audit to frame Regulations respecting the method of book-keeping to be used in the several departments and by the several sub-accountants of the Dominion, the issuing of warrants, the accounting for public moneys, and the auditing of accounts thereof, and to submit such Regulations to the Governor in Council through the Minister of Finance, and from time to time to suggest any amendments they may deem advisable in such Regulations, and to submit them in like manner; and any Order in Council made on any of the subjects aforesaid, shall have the force of law until revoked or amended, as it may be, by any subsequent Order.

Regulations.

To prepare
Public
Accounts.

27. It shall be the duty of the Board of Audit to prepare and submit to the Minister of Finance the Public Accounts to be annually laid before Parliament.

Financial year.

28. The said Public Accounts shall include the period from the thirtieth of June in one year to the thirtieth of June in the next year, which period shall constitute the Financial Year; all Estimates submitted to Parliament shall be for the services coming in course of payment during the financial year; and all balances of appropriation which remain unexpended at the end of the financial year, shall lapse and be written off.

Unexpended
balances to
lapse.

Governor in
Council may
alter period for
accounting.

29. The Governor in Council may alter the period at or to which any Accountant for public moneys, Public Officer, Corporation or Institution, is required to render any account or to make any return, whenever in his opinion such alteration will facilitate the correct preparation of the Public Accounts or Estimates for the financial year, anything in any Act to the contrary notwithstanding.

Power to
examine per-
sons on oath.

30. The Board of Audit shall have full power and authority to examine any person on oath or affirmation on any

matter pertinent to any account submitted to it for Audit, and such oath or affirmation may be administered to any person by any Member of the Board.

31. Any Member of the Board duly authorized by it, may apply, in term or in vacation, to any Judge of the Superior Court for the Province of Quebec, or of any one of the Superior Courts of Common Law in any of the Provinces of Ontario, Nova Scotia or New Brunswick, for an order that a subpoena be issued from the Court, commanding any person therein named to appear before the said Board at the time and place mentioned in such subpoena, and then and there to testify to all matters within his knowledge relative to any account submitted to the said Board, and (if the Board so desire) to bring with him and produce to the Board any document, paper or thing which he may have in his possession relative to any such account as aforesaid; and such subpoena shall issue accordingly upon the order of such Judge; And any such witness may be summoned from any part of Canada whether within or without the ordinary jurisdiction of the Court issuing the subpoena.

To obtain writs of summons.

32. If by reason of the distance at which any person whose evidence is required by the said Board resides from the place where its sittings are held, or for any other cause, the Board deems it advisable, they may issue a Commission, under the hands and seals of any two Members of the Board, to any officer or person therein named, empowering him to take such evidence, and report the same to them; And such officer or person, being first sworn before some Justice of the Peace faithfully to execute the duty entrusted to him by such Commission, shall, with regard to such evidence, have the same powers as the Board or any Member thereof would have had if such evidence had been taken before the Board, and may, in like manner, apply to and obtain from any Judge of any of the Courts aforesaid, a subpoena for the purpose of compelling the attendance of any person, or the production of any document, paper or thing before him; And such subpoena shall issue accordingly on the order of such Judge, or such subpoena may issue on the application of any Member of the said Board authorized to make such application, to compel such attendance, or the production of any document, paper or thing before such Commissioner.

Or to issue commissions to examine witnesses.

33. If any person summoned in the manner hereinbefore provided to attend before the said Board of Audit or any Commissioner appointed as aforesaid, fails, without valid excuse, to attend accordingly,—or, being commanded to produce any document, paper or thing in his possession, fails to produce the same,—or refuses to be sworn or to answer any lawful and pertinent question put to him by the Board or by such Commissioner, such person shall, for each such offence, forfeit the sum of one hundred dollars to the Crown, for the public uses of the

Punishment of persons refusing to attend.

Dominion, to be recovered in any manner in which debts due to the Crown can be recovered, and may likewise be dealt with by the Court out of which the subpoena issued, as having refused to obey the process of such Court, and as being guilty of a contempt thereof.

SPECIAL DUTIES OF THE AUDITOR.

To see that appropriations are not exceeded.

34. It shall be the duty of the Auditor to see that no warrant issues for the payment of any public money for which there is no direct parliamentary appropriation or in excess of any portion of such appropriation the expenditure of which has been authorized by the Governor in Council; and he shall report to the Governor in Council through the Minister of Finance, any case in which a sub-accountant has expended money out of the proceeds of any accountable warrant, for any purpose for which there is no legislative authority, or beyond the amount for which there is such authority.

By 33 V. c. 7, sec. 1, the Auditor-General is made Deputy Minister of Finance and Deputy Head of the Department of Finance.

No money warrant except on his certificate.

35. No money warrant shall issue except upon the certificate of the Auditor that there is parliamentary authority for the expenditure, save only in the following cases:

Exception.
Opinion of Attorney-General.

1. If upon any application for a warrant, the Auditor has reported that there is no parliamentary authority for issuing it, then upon the written opinion of the Law Officer of the Crown, that there is such authority, citing it, the Minister of Finance may authorize the *Deputy Inspector-General* to prepare the warrant irrespective of the Auditor's report;

See note to section 21, ante page 225.

Exception.
Accidents or sudden emergency.

2. If when Parliament is not in session, any accident happens to any public work or building which requires an immediate outlay for the repair thereof, or any other occasion arises when any expenditure not foreseen or provided for by Parliament is urgently and immediately required for the public good, then upon the Report of the Minister of Finance that there is no parliamentary provision, and of the Minister having charge of the particular service in question, that the necessity is urgent, the Governor in Council may order a special warrant to be prepared, to be signed by the Governor himself, for the issue of the amount estimated to be required, which shall be placed by the Receiver General to a special account, against which warrants may issue from time to time in the usual form, as they may be required.

Duty of Auditor in such cases.

3. It shall be the duty of the Auditor in all such cases to prepare a statement of all such legal opinions, reports of Coun-

oil and special warrants, and of all expenditure incurred in consequence thereof, which he shall deliver to the Minister of Finance to be by him presented to Parliament not later than the third day of the session thereof then next ensuing.

36. If the Auditor has refused to certify that a warrant may issue, on the ground that the money is not justly due, or that it is in excess of the authority granted by Council, or for any reason other than that there is no parliamentary authority, then upon a report of the Board of Audit upon the case, the Minister of Finance shall be the judge of the sufficiency of the Auditor's objection, and may sustain him or order the issue of the warrant, in his discretion.

Minister of Finance to judge of objections in certain cases.

LIABILITY OF PUBLIC ACCOUNTANTS AND REVENUE OFFICERS—CIVILLY.

37. If any corporation, officer or person refuses or neglects to transmit any account, statement or return, with the proper vouchers, to the officer or department to whom he is lawfully required to transmit the same, on or before the day appointed for the transmission thereof, such corporation, officer or person shall, for such refusal or neglect, forfeit and pay to the Crown, for the public uses of the Dominion, the sum of one hundred dollars, to be recovered, with costs, as a debt due to the Crown, and in any court and in any way in which debts to the Crown can be recovered; and in any action for the recovery of such sum, it shall be sufficient to prove, by any one witness or other evidence, that such account, statement or return ought to have been transmitted by the defendant, as alleged on the part of the Crown, and the onus of proving that the same was so transmitted shall rest upon the defendant.

Penalty for not accounting as required by law.

Onus of proof.

38. Whenever the Minister of Finance has reason to believe that any officer or person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands any public money applicable to any purpose, and has not paid over or duly applied and accounted for the same—he may direct a notice to such officer, or person, or to his representative in case of his death, requiring him, within a time to be therein named, and not less than thirty nor more than sixty days from the service of such notice, to pay over, or apply and account for such money to the Minister of Finance or to the Officer to be mentioned in the notice, and to transmit to him the proper vouchers that he has so done:

Notice to persons neglecting to pay over.

2. Such notice shall be served by the Sheriff of the district or county where the service is made, or his deputy, by delivering a copy to the officer or person to whom it is addressed, or leaving it for him at his usual place of abode; and the return of the Sheriff with an affidavit of such service, shall be conclusive evidence thereof.

Service of notice.

Proceedings
against per-
sons refusing
to obey notice.

39. If any officer or person fails to pay over, apply or account for any such money, and to transmit such vouchers as aforesaid within the time limited by the notice served on him, the Minister of Finance shall state an account as between such officer or person and the Crown in the matter to which the notice relates, charging interest from the service thereof, and shall deliver a copy thereof to Her Majesty's Attorney-General for Canada, and such copy shall be sufficient evidence to support any information or other proceeding for the recovery of the amount therein shown to be in the hands of the defendant, as a debt due to the Crown, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence;—and the defendant shall be liable to the costs of such information or proceeding, whatever be the judgment therein, unless he proves that before the time limited in such notice, he paid over or applied and duly accounted for the money therein mentioned, and transmitted the proper vouchers with such account, or unless he be sued for the same in a representative character, and is not personally liable for such money, or to render such account.

Costs.

Proceedings in
case of insuffi-
cient vouchers.

40. Whenever any such officer or person as aforesaid has transmitted an account, either before or after notice as aforesaid, but without vouchers or with insufficient vouchers for any sum for which he therein takes credit,—the Minister of Finance may notify such officer or person, in the manner mentioned in the next preceding section but one, to transmit vouchers, or sufficient vouchers, within thirty days after the service of the notice; And if such vouchers are not transmitted within that time, the Minister of Finance may state an account against such officer or person, disregarding the sums for which he has taken credit but for which he has transmitted no vouchers or insufficient vouchers, and may deliver a copy of such account to Her Majesty's Attorney-General for Canada, and such copy shall be sufficient evidence to support an information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence; but such defendant shall be liable to the costs of the information or proceeding, whatever be the judgment therein, unless the vouchers by him transmitted within the time limited by the notice served on him, or before such service, are found of themselves sufficient for his defence. and for his discharge from all sums demanded of him:

Service of
notice.

2. The said notice shall be served and the Sheriff's return of service shall be of the like effect as provided in the next preceding section but one with regard to the notice therein mentioned.

Proceedings
in case of
public

41. If at any time it appears clearly, by the books or accounts kept by or in the office of any officer or person em-

ployed in the collection or management of the Revenue or in accounting for the same, or by his written acknowledgment or confession,—that such officer or person hath by virtue of his office or employment received moneys belonging to Her Majesty, and amounting to a sum certain, which he hath refused or neglected to pay over to the officer duly appointed to receive the same, and in the manner and at the time lawfully appointed,—then upon affidavit of the facts, by any officer cognizant thereof, and thereunto authorized by the Governor in Council, made before a Justice or Judge of any Court having jurisdiction in civil matters to the amount of the sum so ascertained as aforesaid,—such Justice or Judge shall cause to be issued against and for the seizure and sale of the goods, chattels and lands of the officer or person so in default as aforesaid, such writ or writs as might have issued out of such Court, if the bond given by him had been put in suit, and judgment had been thereupon obtained in favour of Her Majesty, for a like sum, and any delay by law allowed between judgment and execution had expired; and such writ or writs shall be executed by the Sheriff or other proper officer, and such sum as aforesaid shall be levied under them with costs, and all further proceedings shall be had, as if such judgment as aforesaid had been actually obtained.

money clearly
appearing not
to be paid over
in due course.

42. If any officer or person has received public money for the purpose of applying it to any specific purpose, and has not so applied it within the time or in the manner provided by law,—or if any person having held any public office and having ceased to hold the same, has in his hands any public money received by him as such officer for the purpose of being applied to any specific purpose to which he has not so applied it,—such officer or person shall be deemed to have received such money for the Crown for the public uses of the Dominion, and may be notified by the Minister of Finance to pay such sum back to the Receiver-General, and the same may be recovered from him as a debt to the Crown, in any manner in which debts to the Crown may be recovered,—and an equal sum may in the meantime be applied to the purpose to which such sum ought to have been applied.

Unapplied
public money
to be paid
back.

Recovery if
not paid.

43. If by reason of any malfeasance, or of any gross carelessness or neglect of duty, by any officer or person employed in the collection or management of the Revenue, or in collecting or receiving any moneys belonging to the Crown, for the public uses of the Dominion, any sum of money is lost to the Crown,—such officer or person shall be accountable for such sum as if he had collected and received the same, and it may be recovered from him on proof of such malfeasance, gross carelessness or neglect, in like manner as if he had so collected and received it.

Liability for
loss occasioned
by neglect, &c.

Crown remedies not affected.

44. Nothing in this Act shall weaken or impair any remedy which the Crown has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, for the public uses of the Dominion, and in the possession of any officer or person whomsoever, by virtue of any other Act or Law.

CRIMINAL LIABILITY.

45. *By 34 V., c. 11, s. 1, this Section which imposed a penalty upon officers receiving fees, is repealed, and new provisions substituted; and it is enacted that this Act is to be construed as if the provisions contained in 34 V., c. 11, formed part of this Act, and the two Acts are to be read and construed together. See 34 V., c. 11, post page 237.*

Books, &c., to be H. M. property.

46. All books, papers, accounts and documents of what kind soever, and by whom and at whose cost soever the paper and materials thereof have been procured or furnished,—kept by or used, or received or taken into the possession of any officer or person employed or having been employed in the collection or management of the Revenue or in accounting for the same, by virtue of his employment as such,—shall be deemed to be chattels belonging to Her Majesty,—and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to Her Majesty :

Officers embezzling money, &c.

2. If any such officer or person at any time fraudulently embezzles any such chattel, money or valuable security,—(and any refusal or failure to pay over or deliver up any such chattel, money or valuable security to any officer or person who, being duly authorized by the Governor in Council, demands the same, shall be a fraudulent embezzlement thereof)—he shall be deemed to have feloniously stolen the same, and may be indicted and proceeded against, and being convicted thereof shall be liable to be punished, in the same manner as any servant who having fraudulently embezzled any chattel, money or valuable security, received or taken into his possession by virtue of his employment, for or on the account of his master and being in law deemed to have feloniously stolen the same, may be indicted, proceeded against and punished ;

Other remedies not impaired.

3. Nothing herein contained shall prevent, lessen or impeach any remedy which Her Majesty or any other party has against such offender or his sureties, or against any other party whomsoever ; but nevertheless the conviction of any such offender shall not be received in evidence in any suit, or action at law or in equity against him.

MISCELLANEOUS PROVISIONS.

Before whom oaths or affirmations

47. In all cases wherein proof on oath or by affirmation or declaration is required by any law relating to the collection or

management of the Revenue or to the accounting for the same, may be taken, &c.
 or is necessary for the satisfaction or consideration of the Governor in Council, in any matter relating to the collection or management of the Revenue or to the accounting for the same, and no person or officer is specially named as the officer or person before whom the same is to be made,—it may be made before any Collector or Chief officer of the Customs for the port or place where such proof is required, or before the persons acting for them respectively, or before such other officer or person as may be appointed to receive the same by the Governor, and such officers and persons shall administer such oath or affirmation or receive such declaration; And in any case or class of cases where an oath is required by this Act or by any law in force, in any matter relating to the collection or management of the Revenue or the accounting for the same, the Governor in Council, if he deems it fit, may authorize the substitution for such oath, of a solemn affirmation or of a declaration, which shall then avail to all intents and purposes as such oath would have done.

Affirmation or declaration may be substituted for oath by Order in Council.

48. Upon all examinations and inquiries made by order of the Governor in Council, for ascertaining the truth as to any fact relative to any matter concerning the collection or management of the Revenue, or the accounting for the same, or the conduct of officers or persons employed therein,—and upon like examinations and inquiries made by the Collector of Customs, or by the chief officer employed in the collection and management of the Revenue, in or at any port, district or place, or by any person or officer authorized by the Governor in Council to make such examinations and inquiries,—any person to be examined as a witness shall deliver his testimony on oath to be administered to him by the officer or person making the examination or inquiry:

Inquiries concerning Revenue matters

2. And any person wilfully making any false statement, in any such examination upon oath (or in any solemn affirmation or declaration substituted as aforesaid for an oath,) whether such oath be required by this Act or by any other law relating to the Revenue, shall be deemed guilty of wilful and corrupt perjury, or of a misdemeanour punishable in the same manner as wilful and corrupt perjury, and shall on conviction be liable to be punished accordingly.

Penalty for false statement, &c.

REMITTING DUTIES, FORFEITURES, &C.

49. *By 33 V. c. 8, sec. 1, this section, which related to remitting duties, was repealed, and the following substituted.*

“And whereas it is expedient that the Executive Government should be empowered to relax the strictness of the laws relative to the collection of the Revenue, in cases where, without such relaxation, great public inconvenience, or great hardship and injustice to individuals, could not be avoided:—Therefore,

Recital.

Governor in Council may remit duties, penalties, &c., in certain cases.

How such remission may be made.

Proviso.

Effect of remission.

Must be recommended by Treasury Board.

Returns to Parliament,

Effect of remission of penalty.

Who may sue for penalties.

"1. The Governor in Council, whenever he deems it right and conducive to the public good, may remit any duty or toll payable to Her Majesty, imposed and authorized to be imposed by any Act of the Parliament of Canada, or by any Act of the Legislature of the late Provinces of Canada, Nova Scotia or New Brunswick, in force in the Dominion of Canada, and relating to any matter within the scope of the powers of the Parliament thereof, or any forfeiture or pecuniary penalty imposed or authorized to be imposed by any such Act, for any contravention of the Laws relating to the collection of the Revenue, or to the management of any public work producing toll or revenue, although any part of such forfeiture or penalty be given by law to the informer or prosecutor, or to any other party. And such remission may be total or partial, conditional or unconditional, and may be granted either before or after, or pending any suit or proceeding for the recovery of any duty, toll, penalty or forfeiture, and either before or after any payment thereof has been made or enforced by process or execution; and such remission may be exercised by forbearance from instituting any suit or proceeding for the recovery of any duty, toll, penalty or forfeiture, or if the same have been already instituted, then by the delay, stay or discontinuance of any such suit or proceeding, or by the forbearance to enforce, or by the stay or abandonment of any execution or process upon any judgment, or by the entry of satisfaction upon any judgment, or by the refund of any sum or sums of money paid to the Receiver-General for such duty, toll, penalty or forfeiture, or whereof payment has been enforced by any execution or process upon any judgment as aforesaid: Provided always, that no duties of customs or excise, which shall hereafter be paid to Her Majesty on any goods, shall be remitted or refunded on account of such goods having, after the payment of such duties, been lost or destroyed by fire or other unavoidable accident."

"2. If the remission be conditional, the condition, if accepted by the party to whom the remission is accorded, shall be lawful and valid, and the performance thereof, or the remission only, if unconditional, shall have the same effect as if the remission had been made after the duty, toll, penalty or forfeiture had been sued for and recovered; and if the condition be not performed, it may be enforced, or all proceedings may be had, as if there had been no remission."

"3. No remission shall be made in any case unless such case has been considered, and the remission, whether total or partial, conditional or unconditional, has been recommended by the Treasury Board and sanctioned and ordered by the Governor in Council."

"4. A detailed statement of all remissions and refunds of any tolls or duties shall be annually submitted to the several branches of the Parliament of Canada, within the first fifteen days of the next ensuing Session thereof."

50. If the Governor directs that the whole or any part of any penalty imposed by any Law relating to the Revenue be remitted or returned to the offender, such remission or return shall have the effect of a pardon for the offence for which the penalty is incurred, which shall thereafter have no legal effect prejudicial to the party to whom such remission is granted:

2. Her Majesty's Attorney-General for Canada, may sue for and recover in Her Majesty's name any penalty or forfeiture imposed by any Law relating to the Revenue, before any Court or other judicial authority before which such penalty or forfeiture is recoverable under such Law, or may direct the discontinuance of any suit for any such penalty, by whom or in whose name soever the same has been brought,—and in such case, the

whole of such penalty or forfeiture shall belong to Her Majesty for the public uses of Canada, unless the Governor in Council do, as he may if he sees fit, allow any portion thereof to the seizing officer or other person by whose information or aid the penalty or forfeiture has been recovered.

51. All commissions and appointments of any officers or persons employed in the collection or management of the Revenue or in accounting for the same, issued or made before the passing of this Act, whether before or after the Union of the Provinces now forming the Dominion of Canada, shall continue in force, unless and until revoked or altered by competent authority, and the nature of the duties and local extent of the powers of each office, shall, unless and until they be expressly altered, and so far as they are not inconsistent with any Act of the Parliament of Canada, remain the same as if granted or made under the authority of this Act, subject always to the provisions and enactments thereof; and all bonds which have been given by such officers or persons, or their sureties, shall remain in full force and effect. Appointments
&c., continued.

52. So much of chapter sixteen of the Consolidated Statutes of the late Province of Canada, or of chapter six of the Acts of the Legislature of the said Province, passed in the session held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign; or of chapters ten and eleven of the Revised Statutes of Nova Scotia, (third series) or of chapter forty-one of the Revised Statutes of New Brunswick, or of any other Act or law in force in any Province of the Dominion of Canada, as is inconsistent with this Act, or makes any provision in any matter provided for by this Act other than such as is hereby made, shall be and is repealed, in so far as relates to matters subject to the control of the Parliament of Canada. Repeal of
inconsistent
Acts, &c.

33 VICT. CAP. 8.

An Act to explain and amend the Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants.

[Assented to 12th May, 1870.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

Section 49
repealed, and
new section
substituted.

1. The forty-ninth Section of the Act passed by the Parliament of Canada, in the thirty-first year of Her Majesty's Reign, chaptered 5, and intituled, "An Act respecting the "Collection and Management of the Revenue, the Auditing of "Public Accounts, and the liability of Public Accountants," is hereby repealed, and the following Section is enacted in lieu thereof, and shall be taken and read as the forty-ninth Section of the said Act, and as explanatory of the intention of the said Act :

Recital.

"49. And whereas it is expedient that the Executive Government should be empowered to relax the strictness of the laws relative to the collection of the Revenue, in cases where without such relaxation, great public inconvenience, or great hardship and injustice to individuals, could not be avoided :— Therefore,

Governor in
Council may
remit duties,
penalties, &c.,
in certain
cases.

"1. The Governor in Council, whenever he deems it right and conducive to the public good, may remit any duty or toll payable to Her Majesty, imposed and authorized to be imposed by any Act of the Parliament of Canada, or by any Act of the Legislature of the late Provinces of Canada, Nova Scotia, or New Brunswick, in force in the Dominion of Canada, and relating to any matter within the scope of the powers of the Parliament thereof, or any forfeiture or pecuniary penalty imposed or authorized to be imposed by any such Act, for any contravention of the laws relating to the collection of the revenue, or to the management of any public work producing toll or revenue, although any part of such forfeiture or penalty be given by law to the informer or prosecutor, or to any other party. And such remission may be total or partial, conditional or unconditional, and may be granted either before or after, or pending any suit or proceeding for the recovery of any duty, toll, penalty, or forfeiture, and either before or after any payment thereof has been made or enforced by process or execution ; and such remission may be exercised by forbearance from instituting any suit or proceeding for the recovery of any duty, toll, penalty, or forfeiture, or if the same have been already instituted, then by the delay, stay or discontinuance of any such suit or proceeding, or by the forbearance to enforce, or by the stay or abandonment of any execution or process upon any judgment, or by the entry of satisfaction upon any judgment, or by the refund of any sum or sums of money paid to the Receiver-General for such duty, toll, penalty, or forfeiture, or whereof payment has been enforced by any execution or process upon any judgment as aforesaid : Provided always that no duties of customs or excise which shall hereafter be paid to Her Majesty, on any goods, shall be remitted or refunded on account of such goods having, after the payment of such duties, been lost or destroyed by fire or other unavoidable accident :"

How such
remission may
be made.

Proviso.

"2. If the remission be conditional, the condition, if accepted by the party to whom the remission is accorded, shall be lawful and valid, and the performance thereof or the remission only, if unconditional, shall have the same effect as if the remission had been made after the duty, toll, penalty or forfeiture had been sued for and recovered; and if the condition be not performed, it may be enforced, or all proceedings may be had, as if there had been no remission: "

Effect of remission.

"3. No remission shall be made, in any case unless such case has been considered, and the remission whether total or partial, conditional or unconditional, has been recommended by the Treasury Board, and sanctioned and ordered by the Governor in Council: "

Must be recommended by Treasury Board.

"4. A detailed statement of all remissions and refunds of any tolls or duties shall be annually submitted to the several branches of the Parliament of Canada, within the first fifteen days of the next ensuing Session thereof."

Returns to Parliament.

34 VICT. CAP. 11.

An Act for the prevention of corrupt practices in relation to the Collection of the Revenue.

[Assented to 14th April, 1871.]

WHEREAS it is expedient to make more stringent enactments in relation to the criminal liability of public officers and other persons guilty of corrupt practices in relation to the Collection and Management of the Revenue: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. Section forty-five of the Act passed in the thirty-first year of Her Majesty's reign, chapter five, intituled "An Act respecting the Collection and Management of the Revenue, the auditing of Public Accounts, and the liability of Public Accountants," is repealed, and the Act cited shall from the date of the passing of this Act be construed as if the sections hereinafter contained formed part thereof, and all the provisions of the said Act shall apply to this Act, which shall be read and construed hereafter as forming but one and the same Act therewith.

Sec. 45 of 31 V., c. 5, repealed. How that Act and this shall be construed.

2. Any officer, or any person acting in any office or employment, connected with the collection or management of the revenue who—

Punishment of officers, &c., of the Revenue receiving bribes, &c., &c.

1. Shall receive any compensation or reward for the performance of any official duty, except as by law prescribed ; or

2. Shall conspire or collude with any other person to defraud the Crown, or shall make opportunity for any person to defraud the Crown ; or

3. Shall designedly permit any violation of the law by any other person ; or

4. Shall wilfully make or sign any false entry in any book, or wilfully make or sign any false certificate or return in any case, in which he is by law or regulation required to make any entry, certificate or return ; or

5. Having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the Crown, under any revenue law of Canada, shall fail to report, in writing, such knowledge or information to his next superior officer ; or

6. Shall demand or accept, or attempt to collect, directly or indirectly, as payment, or gift, or otherwise, any sum of money, or other thing of value, for the compromise, adjustment, or settlement of any charge or complaint for any violation, or alleged violation of law, except as expressly authorized by law, or by the authority of the Department of which he is an officer, to do,—

Dismissal,
fine, and im-
prisonment.

Shall be dismissed from office, and shall be held to be guilty of a misdemeanour, and shall, on conviction, be liable to a fine not exceeding five hundred dollars, and to imprisonment for any term not exceeding one year.

Punishment
of persons
offering such
bribes, &c.

3. If any person, directly, or indirectly promises, offers, or gives, or causes or procures to be promised, offered, or given, any money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to any officer, or any person acting in any office or employment connected with the collection or management of the revenue, with intent—

1. To influence his decision or action on any question or matter which may then be pending, or may by law be brought before him in his official capacity ; or

2. To influence such officer or person to commit, or aid or abet in committing any fraud on the revenue, or to connive at, collude in, or allow or permit any opportunity for the commission of any such fraud,—

Such person, and any officer or person, who shall in any wise accept or receive any such moneys, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery thereof, or any other valuable thing whatever, or any part of the same respectively, shall be guilty of misdemeanour, and be liable, on conviction, to a fine not exceeding three times the amount so offered or accepted, and to imprisonment for any term not exceeding one year; and any officer or person convicted under this section shall forfeit his office or place; and any person convicted under this section shall be for ever disqualified to hold any office of trust, honour or profit, under the Crown.

Or Officers receiving the same.

Fine, imprisonment, dismissal, and disqualification.

4. Any officer, or any person acting in any office or employment connected with the collection of the revenue, who becomes, directly or indirectly, interested in the manufacture or production of any article subject to Excise, or who trades in any article subject to Excise duties, shall incur a penalty not exceeding five hundred dollars nor less than fifty dollars, which shall be recoverable in any Court having jurisdiction in civil cases, to the amount thereof; and any such officer or person interested in any such manufacture at the time this Act takes effect, who fails to divest himself of such interest within sixty days thereafter, shall be held to have become so interested after this Act takes effect.

Penalty on officers becoming concerned in manufacture, &c., of articles, subject to excise.

31 VICT. CAP. 46.

An Act to enable Banks in any part of Canada to use Notes of the Dominion instead of issuing Notes of their own.

[Assented to 22nd May, 1868.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. *This Section, which related to arrangements with Banks for the surrender of their power to issue notes, is repealed with the six following Sections by 33 V., c. 10, sec. 1, see post, page 243, except as to then existing arrangements with the Bank of Montreal.*

2. *This Section, which provided that the surrender might be gradual or immediate, is repealed. See Section 1.*

3. *This Section, which provided that after such surrender*

Banks should not be obliged to hold Provincial Debentures, is repealed. See Section 1.

4. This Section, which provided for weekly returns to the Auditor, is repealed. See Section 1.

5. This Section, which related to powers of Governor in Council in making arrangements with Banks, is repealed. See Section 1.

6. This Section, which gave power to resume right of issue, is repealed. See Section 1.

7. This Section, which related to rights on renewal of charters, is repealed. See Section 1.

Recital.

29-30 V., c. 10.

Certain Provincial Notes issued under that Act to be Dominion Notes: redemption, re-issue, &c.

8. And whereas by an Act of the Legislature of the late Province of Canada passed in the session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, and intituled: "An Act to provide for the issue of Provincial Notes," the Governor of that Province in Council was empowered to authorize the issue of Provincial Notes for the general purposes of the Province, to the amount of five millions of dollars, and to a further amount not exceeding three millions of dollars for purposes relative to the surrender by all or any of the chartered Banks of the Province of their power to issue notes, under provisions similar to those made in this Act, and it was provided that such notes should be of such denominational values and in such form as the Governor in Council might direct, and be redeemable in specie on presentation at offices to be established at Montreal and Toronto, and at that one of the said places at which they were respectively made payable, and should be a legal tender except at the offices aforesaid: And whereas such Provincial Notes to the amount of five millions of dollars were in pursuance of the said Act issued for the general purposes of the Province, and a further amount for purposes relative to the surrender by the Bank of Montreal of its power to issue notes, and for such other purposes provided for by the aforesaid Act as are specified in the agreement with the said Bank approved of by the Governor in Council; and Provincial Notes to an amount equal in the whole to eight millions of dollars, were engraved and prepared for issue;—therefore, the Provincial Notes issued or prepared for issue as aforesaid, to an amount not exceeding in the whole eight millions of dollars, shall be held to be Notes of the Dominion of Canada, and having been or being hereafter issued under the Act above cited or this Act, shall be redeemable in specie on presentation at offices established or to be established at Montreal, Toronto, Halifax and St. John (New Brunswick), and at that one of the said places at which they may be respectively made payable, and being so redeemed may and might be again re-issued for the general purposes of the Dominion, and shall be (as provided by the Act

before cited) a legal tender except at the offices at which they are respectively made payable;—and the said eight millions of dollars in such notes, not issued under the provisions of the Act before cited, may be issued as Dominion Notes for the purposes of this Act;

Issue of
balance not
yet issued.

Provided always, that such of the said Notes as are made payable at Halifax, shall, so long as the currency of Nova Scotia remains such as it now is, be redeemable in that currency, that is, at the rate of one pound sterling, English, for every five dollars of the face value of such notes; and shall be a legal tender in Nova Scotia only;

Proviso,
as to notes re-
deemable at
Halifax.

And provided also, that instead of re-issuing any such Provincial Notes, the Governor in Council may authorize the issue of Dominion Notes to an amount not exceeding that of the Provincial Notes redeemed, and such Dominion Notes may be of such denominational values and in such form, and signed by such persons and in such manner, by lithograph, printing or otherwise as he may from time to time direct, and such Notes shall be redeemable in specie on presentation at offices to be established at Montreal, Toronto, Halifax and St. John, and at that one of the said places at which they may be respectively made payable, and shall be a legal tender except at the offices at which they are respectively made payable; subject always to the foregoing proviso as to those made payable at Halifax, so long as the currency of Nova Scotia remains unchanged.

Proviso; for
issue of Do-
minion Notes
instead of Pro-
vincial Notes
redeemed.

So much of this section as relates to amount of Dominion Notes which may be issued and outstanding at any time, is repealed by 33 V., c. 10, sec. 2. See page 243, post.

9. *This section, which related to offices for redemption of notes, was repealed by 33 V., c. 10, sec. 7. See page 244, post.*

10. *This section, which related to sums to be held in specie for redemption of Provincial or Dominion Notes, was repealed by 33 V., c. 10, sec. 2.*

11. *This section, which related to appointment of Commissioners for ascertaining the amount of notes issued, and specie and debentures held, was repealed by 33 V., c. 10, s. 8.*

12. The proceeds of the said Provincial or Dominion notes shall form part of the Consolidated Revenue Fund of Canada, and the expenses lawfully incurred under this Act shall be paid out of the said Fund.

Proceeds and
expenses of
Notes.

13. The word “specie” in this Act means coin current by law of that one of the Provinces in which any Provincial or Dominion note is made payable, at the rates and subject to the provisions of the law in that behalf, or Bullion of equal value

Interpretation.

according to its weight and fineness;—and the expression “Provincial Debentures or Government Securities” in the first, second, third and sixth sections of this Act, means and includes any Debentures, which under the charter of the Bank in question may be held by it in compliance with any provision in its charter obliging it to invest a certain portion of its capital in such Debentures or Securities.

This interpretation section is extended to 33 V., c. 10, by section 9 of that Act.

Punishment
for forging
notes, &c.

Having plates,
&c., in posses-
sion.

Uttering
notes, &c.

14. If any person engraves or in any wise makes upon any plate whatever, or upon any wood, stone or other material, any note, purporting to be a Provincial Note, or a note of the Dominion of Canada, without the authority of the Minister of Finance, the proof of which shall lie on the party accused; or if any person engraves or makes upon any plate whatever, or upon any wood, stone or other material, any word or words resembling or apparently intended to resemble any subscription subjoined to any Provincial Note, or Note of the Dominion of Canada, without such authority, to be proved as aforesaid; or if any person, without such authority, to be proved as aforesaid, uses or without lawful excuse, to be proved by the party accused, knowingly has in his custody or possession, any plate, wood, stone or other material upon which any such Provincial Note, or Note of the Dominion of Canada, or part thereof, or any word or words resembling or apparently intended to resemble such subscription as aforesaid has been engraved or made, or if any person without such authority, to be proved as aforesaid, knowingly offers, utters, disposes of or puts off, or without lawful excuse, to be proved as aforesaid, knowingly has in his custody or possession any paper upon which any part of such Provincial Note, or Note of the Dominion of Canada, or any word or words resembling or apparently intended to resemble any such subscription, has been made or printed, every such offender shall be guilty of felony, and on conviction shall be liable to be imprisoned in the penitentiary for any term not less than two years nor more than seven years, or to be imprisoned in any Common Gaol for any term less than two years, in the discretion of the court before which the conviction is had.

Repeal of in-
consistent en-
actments.

15. So much of any Act or law in force in this Dominion as may be inconsistent with this Act, is hereby repealed.

33 VICT. CAP. 10.

An Act to amend the Act 31 Victoria, Chapter 46,
and to regulate the Issue of Dominion Notes.

[Assented to 12th May, 1870.]

IN amendment of the Act passed in the thirty-first year of Her Majesty's Reign, intituled, "*An Act to enable Banks in any part of Canada to use Notes of the Dominion instead of issuing Notes of their own*;" Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. The first seven Sections of the said Act are hereby repealed, except as to any arrangement with the Bank of Montreal now existing under them, which shall remain in force until terminated in accordance with the conditions thereof. Preamble.
31 V., c. 46.
Sects. 1 to 7
repealed.
Exception.
2. Section ten of the said Act is hereby repealed, and also so much of section eight as determines or relates to the amount of Dominion notes which may be issued and outstanding at any time; and the amount of such notes which may be issued and outstanding at any time, and the amount of specie and debentures to be held for securing the redemption thereof, shall hereafter be such, and such only, as is authorized by the following sections of this Act. Sect. 10 and
part of Sect. 8
repealed.
3. Dominion notes to the amount of five million dollars, or such greater amount as may be authorized as hereinafter mentioned, may be issued and remain outstanding at any time on the security of debentures of the Dominion and specie, equal together to a like amount, and of which not more than eighty per cent. shall be debentures; such debentures and specie to be held by the Receiver-General for the redemption of such notes. Amount of
Dominion
Notes, and
how secured.
4. The amount of Dominion notes to be issued and outstanding may be, from time to time, increased to an amount not exceeding nine million dollars, on like security of debentures and specie equal together to the amount of notes so issued and outstanding, by order in Council founded on a report of the Treasury Board, such increase being so authorized for amounts not exceeding one million dollars at one time, and at intervals of not less than three months, and no such increase being authorized unless the Receiver-General then holds specie to the amount of one-fourth of the aggregate amount of such increase and of the debentures already held by him as aforesaid; nor shall the amount of nine millions be so authorized, unless the Receiver-General then holds specie to the amount of two mil- How the
amount may
be increased.
Conditions.

Proportion of specie and debentures to be held for redemption of notes.

lion dollars : and the Receiver-General shall always, as a rule, hold specie to the amount of twenty-five per cent. of the debentures to be held by him as aforesaid, and shall, under no circumstances, hold a less amount of specie than fifteen per cent. of such debentures ; the amount of debentures and specie so held for securing the redemption of the said notes being together, never less than the amount of notes then issued and outstanding ; and if the amount of such specie should at any time fall below twenty-five per cent. of the amount of such debentures, it shall be the duty of the Receiver-General, without delay, to increase the proportion of specie to at least twenty-five per cent. of the amount of debentures.

Debentures to be delivered to Receiver-General for the said purpose.

5. Debentures of the Dominion may be issued and delivered to the Receiver-General, for the purposes of this Act, and to enable him to comply with its requirements, such debentures being held as aforesaid, for securing the redemption of Dominion notes, and the Receiver-General having full power to dispose of them, either temporarily or absolutely, in order to raise funds for that purpose, or for procuring the amounts of specie required to be held by him under this Act ; but nothing in this Act shall be construed to permit the issue of debentures not otherwise authorized by Parliament, or any increase of the public debt, beyond the amount authorized by section five of the Act of Supply, passed in the Session held in the thirty-second and thirty-third years of Her Majesty's Reign, chapter one.

Proviso.

Any further amount to be issued against specie only.

6. If any amount of Dominion notes be issued and outstanding at any time in excess of the amount then authorized as aforesaid, the Receiver-General shall hold specie to the full amount of such excess, for the redemption of such notes ; and any amount of such notes which the public convenience may require may be issued and remain outstanding, provided the excess of such amount over that so authorized be represented by an equal amount of specie held by the Receiver-General as aforesaid ; and the issue of Dominion notes so represented in full by specie, shall not be deemed an increase of the public debt ; but except in the case of notes so issued against an equal amount of specie, the total amount of Dominion notes outstanding shall never exceed the amount authorized under the foregoing sections of this Act.

So much of this Act as requires the Receiver-General to hold specie to the full amount of the excess of Dominion notes over nine million dollars is repealed by 35 V., c. 7, sec. 1. See next page.

Section 9 repealed. Exception. Offices or agencies for redemption of notes.

7. Section nine of the Act hereby amended is repealed, except as respects any existing arrangements made under it, which shall remain in force until terminated in accordance with the conditions thereof ; and the Governor may in his discretion establish Branch Offices of the Receiver-General's department

in Montreal, Toronto, Halifax, and St. John (N. B.) respectively, or any of them, for the redemption of Dominion notes, or may make arrangements with any Chartered Bank or Banks for the redemption thereof, and may allow a fixed sum per annum for such service at all or any of the said places; and specie or debentures held at any such Branch Office or by any such Bank, for the redemption of Dominion notes, shall be deemed to be held by the Receiver-General.

8. Section eleven of the Act hereby amended is repealed; and the Receiver-General shall publish monthly, in the "Canada Gazette," a statement of the amount of Dominion notes outstanding on the last day of the preceding month, and of the specie and debentures then held by the Receiver-General for the redemption thereof, distinguishing the amounts of specie and debentures so held at each of the cities aforesaid respectively; such statements to be made up from returns to be made by the Branch Offices, Bank or Banks aforesaid to the Receiver-General.

Section 11 repealed.
Receiver-General to publish monthly statements.

Vide 35 V. c. 7, s. 1, infra.

9. All words and expressions in this Act shall have the meaning assigned to them respectively in the Act hereby amended; and the unrepealed provisions of the said Act, in so far as they are not inconsistent with this Act, shall apply to the Dominion notes to be issued under this Act, which shall be construed as one Act with that hereby amended.

interpretation clause.

35 VICT. CAP. 7.

An Act to amend the Act regulating the issue of Dominion Notes.

[Assented to 14th June, 1872.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Preamble.

1. So much of the Act passed in the thirty-third year of Her Majesty's reign, and intituled: "*An Act to amend the Act thirty-first Vict., Cap. forty-six, and to regulate the issue of Dominion Notes*," as makes it necessary that if any amount of Dominion Notes be issued and outstanding at any time in excess of nine millions of dollars, the Receiver-General shall hold specie to the full amount of such excess, for the redemption of such Notes, is hereby repealed; and the amount of specie to be held by the Receiver-General against such excess shall not be less than *thirty-five per cent.* of the amount

Act 33 Vict., cap. 10, amended as to amount of specie to be held for redemption of Dominion Notes over \$9,000,000.

thereof, and the statements to be published by the Receiver-General, under the eighth section of the said Act, shall show distinctly the amount so held by him in specie.

By 38 V. c. 5, (see infra) the Receiver-General is required to hold in specie not less than fifty per cent. of the amount of Dominion Notes over nine and below twelve millions of dollars.

38 VICT. CAP. 5.

An Act further to amend the Acts regulating the Issue of Dominion Notes.

[Assented to 8th April, 1875.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Amount of gold to be held for redemption of Dominion Notes.

1. Whenever the amount of Dominion Notes issued and outstanding shall at any time exceed twelve millions of dollars, the Receiver-General shall hold specie to the full amount of such excess, for the redemption of such notes; and of any amount of the said Notes below twelve millions of dollars, and exceeding nine millions of dollars, the Receiver-General shall hold in specie not less than fifty per cent. of the amount of such Notes above nine millions of dollars, for the redemption of such Notes.

Inconsistent enactments of 35 V. c. 7, &c., repealed.

2. So much of the Act passed in the thirty-fifth year of Her Majesty's reign and intituled, "*An Act to amend the Act regulating the issue of Dominion Notes*," or of any other Act as may be inconsistent with the above enactment, is hereby repealed.

31 VICT. CAP. 45.

An Act respecting the Currency.

This Act was repealed by 34 V. c. 4, sec. 11, (page 249, post) except the following section.

Sums mentioned in certain Acts to be currency of

2. And for the prevention of doubts be it enacted, that all sums mentioned in dollars and cents in the Imperial Act known as the British North America Act, 1867, and in all Acts of the

Parliament of Canada passed in the present or in any future session, shall, unless it be otherwise expressed, be understood, as well with respect to the Province of Nova Scotia as to the other Provinces composing the Dominion of Canada, to be sums in the present currency of the Provinces of Quebec, Ontario and New Brunswick, subject only to the following exception :

Ontario,
Quebec and
New Brunswick,

The exception only relates to Nova Scotia.

34 VICT. CAP. 4

An Act to establish one Uniform Currency for the Dominion of Canada,

[Assented to 14th April, 1871.]

WHEREAS it is expedient to establish one Uniform Currency for the whole Dominion of Canada; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. On and after the first day of July, in the present year of our Lord one thousand eight hundred and seventy-one, the currency of the Province of Nova Scotia shall be the same as that of the Provinces of Quebec, Ontario, and New Brunswick, in all of which one currency, of the uniform value hereinafter mentioned, has been and is now used.

Uniform
currency on
and after 1st
July, 1871.

2. The denominations of money in the currency of Canada, shall be dollars, cents, and mills, the cent being one hundredth part of a dollar, and the mill one tenth part of a cent.

Denomina-
tions in
currency.

3. On and after the said first day of July, 1871, the currency of Canada shall be such, that the British sovereign of the weight and fineness now prescribed by the laws of the United Kingdom, shall be equal to and shall pass current for four dollars eighty-six cents and two-thirds of a cent of the currency of Canada, and the half sovereign of proportionate weight and like fineness, for one half the said sum; and all public accounts throughout Canada shall be kept in such currency: and in any statement as to money or money value, in any indictment or legal proceeding, on or after the said day, the same shall be stated in such currency: and in all private accounts and agreements rendered or entered into on or after the said day, all sums mentioned shall be understood to be in such currency, unless some other is clearly expressed, or must, from the circumstances of the case, have been intended by the parties.

Standard of
value of
Canada cur-
rency.

Public
accounts, &c.,
to be kept
in it.

Payments to be made in Nova Scotia on and after 1st July, 1871, to be in Canada currency.

4. All sums of money payable on and after the said day to Her Majesty, or to any party, under any Act or law in force in Nova Scotia, passed before the said day, or under any bill, note, contract, agreement, or other document or instrument, made before the said day in and with reference to that Province, or made after the said day out of Nova Scotia and with reference thereto, and which were intended to be, and if such alteration of the currency as aforesaid had not been made, would have been payable in the present currency of Nova Scotia, shall, on and after the said day, be represented and payable, respectively, by equivalent sums in the currency of Canada, that is to say, for every seventy-five cents of Nova Scotia currency, by seventy-three cents of Canada currency, and so in proportion for any greater or less sum; and if in any such sum there be a fraction of a cent in the equivalent in Canada currency, the nearest whole cent shall be taken.

How to be calculated.

No bank notes, &c., to be in any other currency.

5. On and after the said day, no Dominion note or bank note payable in any other currency than the currency of Canada, shall be issued or re-issued by the Government of Canada, or by any bank, and all such notes issued before the said day, shall, as soon as practicable, be called in and redeemed, or notes payable in the currency of Canada shall be substituted or exchanged for them.

Her Majesty may cause gold coins to be struck for Canada, and assign thereon value as a legal tender.

6. On and after the said day, any gold coins which Her Majesty may cause to be struck for circulation in Canada, of the standard of fineness prescribed by law for the gold coins of the United Kingdom, and bearing the same proportion in weight to that of the British sovereign, which five dollars bear to four dollars eighty-six cents and two-thirds of a cent, shall pass current and be a legal tender in Canada for five dollars, and any multiples or divisions of such coin, which Her Majesty may cause to be struck for like purposes, shall pass current and be a legal tender in Canada at rates proportionate to their intrinsic value respectively; and any such coins shall pass by such names as Her Majesty may assign to them in her proclamation declaring them a legal tender, and shall be subject to the like allowance for remedy as British coin.

Certain silver and copper coins struck by order of Her Majesty for circulation to be a legal tender in Nova Scotia and throughout Canada.

7. The silver, copper or bronze coins which Her Majesty has caused to be struck for circulation in the Provinces of Quebec, Ontario, and New Brunswick, under the Acts now in force in the said Provinces respectively, shall continue to be current and a legal tender therein, and shall, on and after the said day, be current and a legal tender in the Province of Nova Scotia, at the rates in the said currency of Canada now assigned to them respectively, by the said Acts, and under the like conditions and provisions; and such other silver, copper or bronze coins as Her Majesty may cause to be struck for circulation in Canada, shall pass current and be a legal tender in Canada, at the rates to be assigned to them respectively by Her Majesty's

Royal Proclamation, such silver coins being of the fineness now fixed by the laws of the United Kingdom, and of weights bearing respectively the same proportion to the value to be assigned to them, which the weights of the silver coins of the United Kingdom bear to their nominal value; and all such silver coins aforesaid, shall be a legal tender to the amount of ten dollars, and such copper or bronze coins to the amount of twenty-five cents, in any one payment, and the holder of the notes of any person or corporation to the amount of more than ten dollars, shall not be bound to receive more than that amount in such silver coins in payment of such notes if presented for payment at one time, although each or any of such notes be for a less sum.

Amount
which may
be tendered
in one pay-
ment.

8. No other silver, copper or bronze coins than those which Her Majesty shall have caused to be struck for circulation in Canada, or in some Province thereof, shall be a legal tender in Canada.

No other
coins of silver
or copper to
be so.

9. Her Majesty may, by Proclamation, from time to time, fix the rates at which any foreign gold coins of the description, date, weight and fineness, mentioned in such Proclamation, shall pass current, and be a legal tender in Canada; provided that unless and until it is otherwise ordered by any such Proclamation, the gold Eagle of the United States of America, coined after the first day of July, 1834, and before the first day of January, 1852, or after the said day, but while the standard of fineness for gold coins then fixed by the laws of the said United States remains unchanged, and weighing ten penny-weights, eighteen grains, Troy weight, shall pass current and be a legal tender in Canada for ten dollars, and the gold coins of the said United States being multiples and halves of the said Eagle, and of like date and proportionate weights, shall pass current and be a legal tender in Canada, for proportionate sums.

As to foreign
gold coins.

10. The stamp of the year on any foreign coin made current by this Act, or any Proclamation issued under it, shall establish *primâ facie* the fact of its having been coined in that year, and the stamp of the country shall establish *primâ facie* the fact of its being of the coinage of such country.

Proof of
date, &c., of
coins.

11. The first, second, sixth, and seventh sections, of chapter eighty-three, of the Revised Statutes of Nova Scotia, third series, and so much of any other part of the said chapter as may be inconsistent with this Act,—the fifteenth chapter of the Consolidated Statutes of the late Province of Canada,—the Act of the Legislature of the Province of New Brunswick passed in the fifteenth year of Her Majesty's reign, chapter eighty-five, the Act of the said Legislature passed in the sixteenth year of Her Majesty's reign, chapter thirty-three, the Act of the said Legislature passed in the twenty-third year of Her Majesty's reign,

Repeal of
inconsistent
enactments.

chapter forty-eight, except section two,—and the Act of the Parliament of Canada passed in the thirty-first year of Her Majesty's reign, chapter forty-five, except section two,—shall be repealed on and after the said first day of July, 1871, as shall also all other Acts and parts of Acts inconsistent with this Act.

C. S. U. C. CAP. 7.

An Act respecting the Sale and Purchase of Claims due to Government for moneys advanced to Public Works.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

The Governor in Council may assign certain claims against certain Companies, and to whom and how.

1. The Governor by Order in Council, and on the conditions and with the provisions and limitations expressed therein, may assign, transfer and convey to any Municipal Corporation, in or through whose Municipality any public work or improvement hereinafter mentioned may lie or pass, or to any incorporated Company or other party who may agree to purchase the same, the claim of the Province for any sum of money due from any Company or party, arising out of any advance or payment made by the Government of the Province, or of Upper Canada, under any Act of the Legislature of Upper Canada, to or for any Company incorporated, for the purpose of constructing any canal, railroad, harbour, road or other work and improvement of a public nature that may be mentioned in the Order in Council.

The order in Council may include the undertaking of sureties.

2. The Order in Council may also include the undertaking of any third person who becomes surety for the due payment of the consideration money, and the faithful performance of any conditions therein mentioned; and such Order in Council shall transfer to and vest in the assignee therein named, all the rights of the Crown in and to the debt or claim thereby intended to be transferred, and shall have effect according to the tenor thereof, as if the clauses, conditions and provisions thereof were inserted in this Act.

What to besufficient evidence of transfer.

3. A copy of the *Canada Gazette* containing any such Order in Council, or any copy of such Order certified by the Provincial Secretary, shall be evidence thereof, and the consent and agreement of all the parties named therein shall be presumed unless disputed by such parties, and if disputed, the same may be proved by any copy of the Order in Council on which the consent of the parties is written and attested by such signa-

ture or seal as would be sufficient to make any deed or agreement the deed or agreement of such parties.

32-33 VICT. CAP. 9.

An Act respecting certain Fee Funds in the Province of Ontario.

[Assented to 22nd June, 1869.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The fees, dues and profits received by or on account of the Clerks of the Crown and their Deputies, and the Process Clerk, in the Province of Ontario, and which under Chapter ten of the Consolidated Statutes for Upper Canada, Sections twenty-nine, forty and forty-one, were made part of the Consolidated Revenue Fund of the late Province of Canada, shall be, and shall be held to have been from and after the first day of July, one thousand eight hundred and sixty-seven, transferred to the Province of Ontario, and all sums received after the said day, for the stamps by which, under the Act of the said late Province, twenty-seven, twenty-eight Victoria, Chapter five, the said fees, dues and profits are payable shall (after deducting expenses) be paid over to the said Province.

Certain fees, &c., payable by stamps under 27-28 V., c. 5, in Ontario, transferred to that Province.

2. The fees payable into the General Fee Fund of the Province of Ontario, under the Consolidated Statutes for Upper Canada, Chapter fifteen, Sections thirty and fifty-nine,—Chapter sixteen, Section sixty-seven,—and Chapter nineteen, Section fifty-three, and which are collected and accounted for under the provisions of Chapter twenty of the said Consolidated Statutes, and paid by stamps under the said Act, twenty-seven, twenty-eight Victoria, Chapter five, shall be and shall be held to have been since the first day of July, one thousand eight hundred and sixty-seven, transferred to the Province of Ontario and all sums received after the said day, for the stamps by which under the said last mentioned Act, the said fees, dues and profits are payable, shall (after deducting expenses), be paid over to the said Province.

Fees payable into General Fee Fund of Ontario, and paid by stamps under 27-28 V., c. 5, transferred to that Province.

2. CUSTOMS.

31 VICT. CAP. 43.

An Act constituting the Department of Customs.

[Assented to 22nd May, 1868.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Department constituted.

1. There shall be a Department of the Public Service to be called the "Department of Customs," over which the Minister of Customs for the time being, appointed by the Governor, by Commission under the Great Seal, shall preside.

Commissioner and Assistant Commissioner.

2. There shall be a Commissioner of Customs, and an Assistant Commissioner, both of whom shall hold office during pleasure, and shall have such powers and perform such duties, respectively, as may be assigned to them by the Governor General, or by the Minister of Customs.

Of what matters the Department shall have the control.

3. The Department of Customs shall have the control and management,—

1. Of the collection of the duties of Customs and of matters incident thereto, and of the officers and persons employed in that service ;

Subject to the Acts in that behalf.

2. Of the collection of the tolls on the Public Canals, and of matters incident thereto, and of the officers and persons employed in that service ; subject always to the provisions of the *Act respecting Customs*, and of the *Act respecting the collection and management of the Revenue*, the *auditing of Public Accounts* and the *liability of Public Accountants*, and of any other Acts relating to the Customs or matters incident thereto.

Board of Examiners or applicants for employment in the Customs.

4. The Governor-General may appoint a Board of Examiners, whose duty it shall be to examine all persons employed or who have applied for employment under the Department of Customs, in the manner and after complying with the conditions prescribed by Departmental Regulations, and to classify them according to their respective qualifications and grant certificates accordingly.

Annual Report by Minister.

5. The Minister of Customs shall annually make to the Governor-General, to be laid before Parliament within fifteen days after the meeting thereof, a report and statement of the transactions and affairs of the Department during the year then next preceding.

6. So much of any Act or law as may be inconsistent with this Act, or as makes any provision in any matter provided for by this Act, other than such as is hereby made, is hereby repealed.

Repeal of
inconsistent
enactments.

31 VICT. CAP. 6.

*An Act respecting the Customs.

[Assented to 21st December, 1867.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Preamble.

PRELIMINARY—INTERPRETATION.

1. In order to avoid the frequent use of numerous terms and expressions in this Act and in other laws relating to the Customs or to trade or to navigation, and to prevent misconstruction of the terms and expressions used therein—It is declared that—

Interpretation
clause.

In this Act or in any such law as aforesaid;—the word “Collector” means the Collector of the Customs at the port or place intended in the sentence, or any person lawfully deputed, appointed or authorized to do the duty of Collector thereat;—the word “Officer” means an officer of the Customs;—the word “Vessel” means any ship, vessel, or boat of any kind whatever, whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only, unless the context be manifestly such as to distinguish one kind or class of vessel from another;—the word “Master” means the person having or taking charge of any ship or vessel;—the words “Owner,” “Importer,” or “Exporter,” mean the owners, importers or exporters, if there be more than one in any case, and include persons lawfully acting on their behalf;—the word “Goods” means goods, wares and merchandize, or moveable effects of any kind including carriages, horses, cattle and other animals, except where these latter are manifestly not intended to be included by the said word;—the word “Warehouse” means any place, whether house, shed, yard, dock, pond, or other place in which goods

Collector.

Officer.
Vessel.

Master.
Owner, &c.

Goods.

* The following Acts or parts of Acts are directed to be construed as one with this Act. Secs. 1-17 of 31 V. c. 7; see sec. 18 of that Act. 31 V. c. 44, see sec. 14 of that Act. Secs. 1-15 of 33 V. c. 9, see sec. 16 of that Act. 37 V. c. 6; see sec. 15 of that Act.

imported may be lodged, kept and secured without payment of duty ;—and the words “ Customs Warehouse ” mean any such place appointed or approved for the said purpose by competent authority ;—And generally, all the terms and provisions of this Act or of any such law as aforesaid, shall receive such fair and liberal construction and interpretation as will best ensure the protection of the Revenue and the attainment of the purpose for which such law was made, according to its true intent, meaning and spirit.

Warehouse.

Customs
Warehouse.

DUTIES AND EXEMPTIONS FROM DUTY.

To what duties
this Act ap-
plies.

2. The following provisions of this Act shall apply to all duties of Customs imposed by any Act of the Parliament of the Dominion of Canada, whether passed in the present session or in any future session of the said Parliament.

As to unenu-
merated arti-
cles bearing a
similitude to
enumerated
ones, &c.

3. On each and every non-enumerated article which bears a similitude either in material, quality or the use to which it may be applied, to any enumerated article chargeable with duty, the same rate of duty shall be payable which is charged on the enumerated article which it most resembles in any of the particulars before mentioned ;—If any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, the duty on such non-enumerated article shall be the same as that on the enumerated article which it resembles, paying the highest duty ;—On all articles manufactured from two or more materials, the duty shall be that charged on the article (if there be a difference of duty) which is charged with the highest duty ;—Spirits and strong waters, from whatever substance distilled or prepared, having the flavor of any kind of spirits or strong waters subject to a higher duty than whiskey, shall be liable to the duty imposed on the spirits or strong waters of which they have the flavor.

Articles made
of more than
one material.Spirits fla-
vored.

Recital.

Governor in
Council may
declare the
duty in doubt-
ful cases, or
that the goods
are free from
duty.

4. And inasmuch as doubts may arise as to whether any or what duty is payable on particular goods, more especially when such goods are of a new or unusual kind, or compounded of various kinds of materials, or imported in an unusual manner or under unusual circumstances : Therefore, for removing such doubts and avoiding litigation—If in any case any doubt arises as to whether any or what duty is under the laws then in force, payable on any kind of goods, and there is no decision in the matter by any competent tribunal, or there are decisions inconsistent with each other, the Governor in Council may declare the duty payable on the kind of goods in question or goods imported in the manner or under the circumstances in question, or that such goods are exempt from duty ; and any Order in Council containing such declaration and fixing such duty (if any) and published in the *Canada Gazette*, shall, until otherwise ordered by the Legislature, have the same force and

effect as if such duty had been fixed and declared by law; and a copy of the said Gazette containing a copy of any such order shall be evidence thereof.

5. All duties, penalties or forfeitures imposed by any Act relating to the Customs, shall be payable in money being a legal tender, at such rate as that four dollars and eighty-six cents and two thirds of a cent of such money, shall be of equal value with the British sovereign or pound sterling; And all such duties shall be paid and received according to the Weights and Measures following, that is to say:—

The pound shall be the British pound avoirdupoise, containing sixteen ounces;

The hundred weight shall be one hundred such pounds;

The ton shall be two thousand such pounds;

The gallon shall be the old English wine gallon containing two hundred and thirty-one cubic inches;

The bushel shall be the Winchester bushel containing two thousand one hundred and fifty cubic inches;

The standard measure of length shall be the English yard containing three feet;

And in all cases wherein the duties are imposed according to any specific quantity or to any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value.

6. The duties imposed by any such Act shall be held to be duties within the meaning of the Act of the present session of the Parliament of Canada, intituled: *Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts and the liability of Public Accountants*, and of any Act of the said Parliament amending the same, and shall, with all matters and things thereunto relating, be subject to the provisions of the said Act or Acts, and to the regulations and orders of the Governor in Council, made or to be made under the authority thereof, in so far as the same are not inconsistent with this Act; And all moneys arising from such duties or from any penalties hereby imposed, and belonging to Her Majesty, shall be paid over by the officer receiving the same to the Receiver General, and shall form part of the Consolidated Revenue Fund of Canada.

ENTRY OF GOODS INWARDS—PLACE OF ENTRY.

7. No goods shall be unladen from any vessel arriving at any port or place in Canada, from any place out of Canada, nor from any vessel having dutiable goods on board brought coastwise, nor shall bulk be broken within three leagues of the coast, until due entry has been made of such goods, and warrant granted for the unlading of the same;—and no goods shall be so unladen, (unless for the purpose of lightening the ship or vessel in crossing over a shoal, or bar, or sand-bank,) except

Exception : between sunrise and sunset and on some day not being a Sunday or Statutory holiday, and at some hour and place at which an officer of the Customs is appointed to attend the unloading of goods, or at some place for which a sufferance has been granted by the Collector or other proper officer, for the unloading of such goods ; and if after the arrival of the vessel within three leagues of the coast any alteration be made in the stowage of the cargo so as to facilitate the unlawful unloading of any part thereof ; or if any part thereof be fraudulently staved, destroyed or thrown overboard, or any package be opened, it shall be deemed a breaking of bulk ;—And all goods unladen contrary to this Act, shall be forfeited, and if bulk be broken contrary to this Act, the master shall forfeit two hundred dollars.

And at the hours and places appointed for the purpose.

Stowage of cargo not to be altered, &c.

Forfeiture for contravention.

Governor in Council to appoint places of entry, and alter the same. 8. The Governor in Council may, by regulation, from time to time, appoint the ports and places of entry for the purposes of this Act, and may in like manner increase or diminish the number or alter the position or limits thereof.

At what places only goods may be imported. 9. No goods shall be imported into Canada, whether by sea, land, coastwise, or by inland navigation, and whether any duty is or is not payable on such goods, except into some port or place of entry at which a Custom House is then lawfully established :

Forfeiture of goods carried past the Custom House on importation by land or removed, &c. 2. And if any goods are imported into Canada at any other place, or being brought into such port or place of entry by land or inland navigation, are carried past such Custom House, or removed from the place appointed for the examination of such goods by the Collector or other officer of the Customs at such port or place, before the same have been examined by the proper officer, and all duties thereon paid and a permit given accordingly, or if any vessel with dutiable goods on board, enters any place other than a Port of Entry, (unless from stress of weather or other unavoidable cause,) such goods (except those of an innocent owner) shall be forfeited, together with the vessel in which the same were imported,—if such vessel is of less value than eight hundred dollars,—and if the vessel is worth more than that sum, it may be seized, and the master or person in charge thereof shall incur a penalty of eight hundred dollars, and the vessel may be detained until such penalty be paid or security given for the payment thereof,—and unless payment be made or satisfactory security be given, within thirty days, such vessel may, at the expiration thereof, be sold to pay the said penalty ;

Vessel forfeited in certain cases.

Vessels may be detained.

And carriages in cases of importation by land. 3. And if any goods are so imported by land, they shall be forfeited, together with the carriage and all the harness and tackle thereof, in or by which such goods are so imported or removed, and the horses or other cattle employed in drawing such carriage, or in importing or removing such goods.

ENTRY INWARDS—REPORT.

10. The master of every vessel arriving from sea or coastwise in any port in Canada, whether laden or in ballast, shall come directly, and before bulk is broken, to the Custom House for the port or place of entry where he arrives, and there make a report in writing to the Collector or other proper officer, of the arrival and voyage of such vessel, stating her name, country, and tonnage, and if British, the port of registry, the name and country of the master, the country of the owners,—the number and names of his passengers, if any,—the number of the crew, and how many are of the country of such vessel, and whether she is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods, if any, have been laden or unladen, or bulk has been broken, during the voyage, what part of the cargo is intended to be landed at that port, and what at any other port in Canada, and what part (if any) is intended to be exported in the same vessel, and what surplus stores remain on board,—as far as any of such particulars can be known to him :

Report to be made by the master of a Vessel arriving from sea, or coastwise.

Contents of such report.

Surplus stores

2. And the Master shall at the same time, if required by the Officer of Customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall, if so required, make and subscribe a declaration referring to his Report and declaring that all the statements made in the Report are true, and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as shall be demanded of him by such officer and shall if required make the substance of any such answer part of this report ; and if any goods are unladen from any vessel before such report be made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, he shall forfeit the sum of four hundred dollars ;

Production of bills of lading ;— answering questions, &c.

Penalty for contravention.

3. And any goods not reported shall be forfeited, unless it appears that there was no fraudulent intention, in which case the Master shall be allowed to amend his report ;—but the necessary discharging of any goods for the purpose of lightening the vessel in order to pass any shoal, or otherwise for the safety of such vessel, shall not be deemed an unlawful landing or breaking of bulk, under this section ;

Goods, not reported, to be forfeited.

As to the necessary lightening of vessels.

4. If the contents of any package intended for importation into another port, or for exportation, be unknown to the master, the officer may open and examine it, and cause it for that purpose to be landed, if he sees fit,—and if any prohibited goods be found therein, all the goods in such package shall be forfeited ;

Goods, intended for another port.

Governor in Council may make regulations for the appointment of sufferance wharves and warehouses for steamers, &c.

5. Provided, that in order to avoid injurious delay to steamers and other vessels under certain circumstances, the Governor in Council may make such regulations as may be considered advisable, for the appointment of Sufferance Wharves and Warehouses, at which goods arriving by vessels in transit to other ports or confined to certain days of departure, may be landed and afterwards stored before entry, such vessels being duly reported to the Custom House, and having obtained the Collector's Warrant for the purpose,—provided such landing be effected between sun-rise and sun-set, on a day not being Sunday or a Statutory Holiday, and provided the goods on being so landed, are immediately stored in some such approved Sufferance Warehouse;—and such goods shall be thereafter dealt with by the Customs as prescribed by law; But nothing in this section shall affect any contract express or implied between the master or owner of any such vessel and the owner, shipper or consignee of any such goods as aforesaid, or the rights or liability of any party under such contract;

As to fish, coin or bullion.

6. And fresh fish, coin or bullion may be landed without entry or warrant, as may also goods in any stranded or wrecked vessel, provided they be duly reported and entered as soon as possible after being safely deposited on shore, and that the landing be in presence of an Officer of the Customs, if one can be procured;

Or live stock, or perishable articles.

7. If a vessel having live stock or perishable articles on deck arrives after business hours, the collector or any officer at the port may permit the master to unlade the same before report; but report shall in such case be made as soon as may be after the next opening of the customs office.

Governor in Council may declare what shall be a coasting voyage.

What shall be deemed inland navigation.

Governor in Council may relieve coasters.

11. The Governor in Council may, by regulation, declare any trade or voyage on the seas, rivers, lakes or waters, within or adjacent to Canada, whether to or from any place within or without Canada, to be a coasting trade or a coasting voyage within the meaning of this Act, whether such seas, rivers, lakes or waters, are or are not, geographically or for the purposes of other Acts or laws, inland waters;—And all carrying by water which is not a carrying by sea, or coastwise, shall be deemed to be a carrying by inland navigation;—And the Governor in Council may from time to time, with regard to any such coasting trade, dispense with such of the requirements of the three next preceding sections as he deems it inexpedient to enforce in any case or class of cases, or make such further regulations as he may think expedient; and any goods carried coastwise, or laden, water borne or unladen, contrary to such regulations or to any provision of this Act not dispensed with by such regulations shall be forfeited.

Report to be made on im-

12. The master or person in charge of any vessel or carriage arriving by land or inland navigation, in any port or place

of entry in Canada, from any place beyond the limits of Canada and having any goods therein, (whether any duty be payable on such goods or not) or if the carriage or its tackle or the horses or cattle drawing the same or any of them is or are liable to duty, and any person whosoever so arriving and having with him or in his charge or custody any goods,—shall come directly, and before any such goods are unladen or put out of his custody, to the Custom House for such port or place of entry, and make a report in writing (in such form as may be appointed for that purpose by competent authority) to the Collector or other proper officer, of the arrival of such vessel, carriage, or goods, stating in such report the marks and numbers of every package and parcel of goods in such vessel or carriage, or in the charge and custody of such person, from what place the same are respectively brought, and to what place and to whom consigned or belonging, as far as such particulars are known to him, and he shall then and there produce such goods to the Collector or other proper officer, and shall declare that no goods have been unladen from such vessel or carriage or have been put out of his possession, between the time of his coming within the limits of Canada and of his making such report and declaration, and shall further answer all such questions concerning such vessel, carriage or goods, as are demanded of him by such Collector or officer :

portation by
land or inland
navigation.

Contents of
such report.

2. And if any goods are unladen from such vessel or carriage, or put out of the custody of such master or person, before such report is made, or if such master or person fails to make such report or to produce such goods, or makes an untrue report, or does not truly answer the questions demanded of him, he shall for each or any such offence forfeit the sum of four hundred dollars, and if any such goods are not so reported and produced, or if the marks and numbers of any package do not agree with the report made, such goods or package shall be forfeited.

Forfeiture of
goods unladen,
&c., without
being so re-
ported—penal-
ty for untrue
report.

ENTRY—GENERAL FORM OF.

13. Every importer of any goods by sea or from any place out of Canada shall, within three days after the arrival of the importing vessel, make due entry inwards of such goods, and land the same ;—And every importer of any goods imported by inland navigation in a decked vessel of one hundred tons burthen or more shall, within twenty-four hours of the arrival of the importing vessel, make due entry inwards of such goods, and land the same :—And every importer of any goods imported by inland navigation in any undecked vessel or in any vessel of less than one hundred tons burthen, or by land shall, forthwith after the importation of such goods, produce the same to the proper officer and make due entry thereof:

Within what
time entries
shall be made
by sea, or from
any place out
of the Pro-
vince.

By inland na-
vigation or by
land, in decked
vessels.

In undecked
vessels.

2. The person entering any goods, whether inwards or outwards, shall deliver to the Collector or other proper officer, a

Bills of entry
inwards or out-
wards.

Duplicates.
Particulars
required.

Bill of the entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer or exporter, and if imported or exported by water, the name of the vessel and of the master, and of the place to or from which bound, and of the place within the port where the goods are to be unladen or laden, and the description of the goods, and the marks and numbers and contents of the packages, and the place from or to which the goods are imported or exported or carried, and stating whether such place is within or without the limits of Canada, and of what country or place such goods are the growth, produce or manufacture; and

Duties to be
paid down, un-
less the goods
are ware-
housed.;

Warrant for
unlading.

Permit, if re-
quired.

3. Unless the goods are to be warehoused in the manner by this Act provided, such person shall at the same time pay down all duties due upon all goods entered inwards; and the Collector or other proper officer shall, immediately thereupon, grant his warrant for the unlading or lading of such goods, and grant a permit for the conveyance of the same further into Canada, if so required by the importer;

In default of
entry, goods
may be taken
to the ware-
house, and
sold, if duties
be not paid
within a cer-
tain time.

4. In default of such entry and landing, or production of the goods, or payment of duty, the Officer of Customs may convey the goods to the Customs Warehouse;—and if such goods be not duly entered for consumption or for warehousing within one month from the date of their being so conveyed to the customs warehouse and all charges of removal and warehouse rent, duly paid at the time of such entry, the goods shall be sold by public auction to the highest bidder, and the proceeds thereof shall be applied first to the payment of duties and charges, and the overplus, if any after discharging the vessel's lien, shall be paid to the owner of the goods or to his lawful agent; and any goods unladen or landed before due entry thereof and warrant for landing, shall be forfeited, and any person concerned in landing or receiving or concealing goods so landed shall for each offence forfeit four hundred dollars:

Proviso: as to
goods not in-
tended to be
landed at the
first port the
vessel makes.

5. But if any goods are brought in any decked vessel, from any place out of Canada to any port of entry therein, and not landed, but it is intended to convey such goods to some other port in Canada in the same vessel, there to be landed, then the duty shall not be paid nor the entry completed at the first port, but at the port where the goods are to be landed and to which they shall be conveyed accordingly, under such regulations and with such security or precautions for compliance with the requirements of this Act, as the Governor in Council may from time to time appoint.

Where the en-
try shall be
completed.

Collector may
require further
proof that
goods are pro-
perly entered,
&c.

14. The Collector may require from the importer (or from his agent) of any goods charged with duty, or conditionally exempted from duty, or exempt therefrom, before admitting the said goods to entry, such further proof as he deems necessary,

by oath or declaration, production of invoice or invoices, or bills of lading or otherwise, that such goods are properly described and rated for duty or come properly within the meaning of such exemptions.

15. Any package of which the importer or his agent declares the contents to be unknown to him, may be opened and examined by the Collector or other proper Officer in the presence of such importer or agent, and at the expense of the importer, who shall also bear the expense of re-packing.

Packages of which the contents are unknown, may be opened.

16. No entry nor any warrant for the landing of any goods or for the taking of any goods out of any warehouse (as herein-after provided,) shall be deemed valid, unless the particulars of the goods and packages in such entry or warrant correspond with the particulars of the goods and packages purporting to be the same in the report of the vessel, or other report, (where any is required,) by which the importation or entry thereof is authorized,—nor unless the goods have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported;—And any goods taken or delivered out of any vessel, or out of any warehouse, or conveyed into Canada beyond the port or place of entry, by virtue of any entry or warrant not corresponding with the facts in all such respects, or not properly describing the goods, shall be deemed to be goods landed or taken without due entry thereof, and shall be forfeited;—And the Collector or proper officer, after the entry of any goods, may, on suspicion of fraud, open and examine any package of such goods, in presence of two or more credible witnesses, and if upon examination the same are found to agree with the entries, they shall be repacked by such Collector or proper officer, at the public cost, but otherwise they shall be forfeited.

No entry unless the goods correspond with the report.

Goods, not corresponding with the entry to be forfeited.

Suspected packages may be opened.

17. The quantity and value of any goods shall always be stated in the Bill of Entry thereof, although such goods are not subject to duty, and the Invoice thereof shall be produced to the Collector.

Quantity and value to be given in entry.

18. The surplus stores of vessels arriving in Canada from parts beyond the seas, shall be subject to the same duties and regulations as if imported as merchandize; but if it shall appear to the collector that such stores are not excessive or unsuitable, under the circumstances of the voyage, he may permit them to be entered for the private use of the master or owner, or of any passenger to whom the same may belong, on payment of the proper duties, or to be warehoused for re-shipment for the future use of the vessel.

Surplus stores of sea-going vessels to be liable to duty.

19. Vessels entering the Gut of Annapolis may be reported and entered, and the duties on goods therein imported paid, either at the port of Digby or Annapolis.

Vessels entering Annapolis.

Or the Great
Bras d'Or.

20. Vessels entering the Great Bras d'Or shall be reported and entered at such place as the Minister of Customs may from time to time direct.

ENTRY INWARDS—GOODS DAMAGED ETC.,—FREE GOODS—TARE.

Abatement of
ad valorem
duties on
goods import-
ed by water
and damaged.

21. If any goods imported by water on which *ad valorem* duties are payable, receive any damage by water or otherwise during the course of the voyage, after such goods have been laden or shipped, and before the same are unshipped or discharged from the vessel in which they are imported into Canada, or from any vessel or craft into which the said goods have been transhipped for the purpose of being conveyed to the port of destination, so that the owner thereof is prejudiced in the sale of such goods,—then if the claim for abatement be made in due form at the first examination of the goods after landing and while they are in the custody of the Crown, the Collector or proper officer of the Customs at the place where the same are landed, being satisfied of the necessary facts, may offer to make such abatement of the duties otherwise payable on such goods as he may think reasonable and just,—but if the owner or consignee of the goods be not satisfied with the abatement so offered, then the Collector may choose three disinterested merchants, experienced in the value of such goods, who, or any two of them, upon viewing the same, shall certify what damage such goods have received, or how much the same are lessened in their true value by such damage, in relation to the duties imposed on them, and thereupon such officer shall make or repay a proportionate allowance to the importer, by way of abatement of the duties due or payable, or which have been actually paid upon the same; And the said merchants shall be allowed in remuneration for such valuation, at the discretion of such officer, a sum of not less than two dollars nor more than ten dollars for each merchant, and such remuneration shall be paid by the owner or owners of such goods.

How ascertain-
ed.

Remuneration
to the
merchants
ascertaining
such abate-
ment.

Return of
duties on goods
lost before
landing; on
what condi-
tions to be ob-
tained.

22. When any vessel is entered at the Custom House at any port in Canada, on board of which there are any goods, on which any duty has been levied or collected, or on which any duty has been deposited, and thereafter the said goods are lost or destroyed before the same are landed from such vessel, or from any vessel or craft employed to lighten such vessel,—then, on proof being made on the oath of one or more credible witnesses or witnesses, before and to the satisfaction of the Collector or proper officer of the Customs at the place, (who shall administer the oath,) that such goods, or any part thereof (specifying the same) have been so lost or destroyed, before the landing of the same,—the duties on the whole, or the part thereof so proved to be lost or destroyed, shall, if the same have been paid or deposited, be returned to the owner or his agent.

23. If any vessel having received damage puts into a port in Canada to which she is not bound, having dutiable goods on board, which it may be necessary to land for the purpose of repairing the vessel in order to enable her to proceed on her voyage, the collector, upon application of the master or agent, may permit such goods to be unladen and deposited in a warehouse in the custody of the collector; and the collector shall cause to be taken an exact account of the packages and contents, and entry of the goods shall then be made by the master or agent as hereinbefore directed, and they shall remain in the custody of the collector until the vessel is ready for sea, when, upon payment of storage and the reasonable charges of unloading and storing, the collector shall deliver up the same to the master or agent to be exported or carried coastwise as the case may be, under the same security and regulations as if such goods had been imported in the usual manner, and without payment of duty; no person shall be entitled to the benefit of this section who shall have sold any of such goods, except such as it may have been necessary to sell to defray the expense of repairs and charges of the vessel, or as may have been authorized by the Collector of Customs, and if goods are sold for payment of repairs and charges they shall be subject to duty, and shall be warehoused, or the duties thereon paid by the purchaser.

Vessels unladen for the purpose of repairing damages.

24. The owner or salvor of dutiable goods saved from the sea, in respect of which any salvage shall have been lawfully awarded or paid, or agreed to be paid, to the salvors, may sell so much thereof as will pay the salvage, and upon production of the award, or satisfactory proof to the Collector of such payment or agreement therefor, the collector shall allow the sale of the goods, free of duty, to the amount of the salvage, or to such other amount as to him appears proper.

Goods sold for salvage.

25. Goods derelict, flotsam, jetsam, or wreck, or landed or saved from any vessel wrecked, stranded, or lost, brought or coming into Canada, shall be subject to the same duties as goods of the like kind imported are subject to; and if of such sort as are entitled to allowance for damage, such allowance shall be made under the direction of the Minister of Customs; if any person has in his possession in port or on land any such goods, the same being dutiable, and does not give notice thereof to the nearest officer of customs without unnecessary delay, or does not on demand pay the duties thereon or deliver the same to the proper officer, he shall forfeit two hundred dollars and the goods be forfeited; and if any person removes or alters in quantity or quality, any such goods, or unnecessarily opens or alters any package thereof, or abets any such act before the goods are deposited in a warehouse under the custody of the customs' officers, he shall forfeit two hundred dollars; and if the duties on such goods are not paid within eighteen months from the time when the same were so deposited, the same may be sold in like manner and for the same purposes as goods imported may in

Goods wrecked or derelict, &c.

Sale for duty. such default be sold ; If they are sold for more than enough to pay the duty the surplus shall be paid over to the person entitled to receive it ; but any person having lawful claim to such goods, or being in possession thereof, shall be at liberty to retain the same in his own custody, on giving bond with two sureties approved by the Collector, in double the value of the goods, for the payment of the duties thereon at the expiration of a year, or to deliver such goods to the proper officer in the same condition as they were at the time of taking possession ; nothing in this section contained shall extend to goods in the custody or under the management of any commissioner for the Isle of Sable.

Crown goods and others, exempted from duty, to be liable to duty if sold ;

Forfeiture if duty be not paid.

26. All goods exempt from duty as being imported or taken out of warehouse for the use of Her Majesty's Troops, or for any purpose for which such goods may be imported free of duty, shall, in case of the sale thereof after importation, become liable to and be charged with the duties payable on like goods on their importation for other purposes ; And if such duties be not paid, such goods shall be forfeited and may be seized and dealt with accordingly.

Allowance for tare, &c., to be fixed by Governor in Council.

27. In all cases where duties are charged according to the weight, tale, gauge or measure, such allowances shall be made for tare and draft upon the packages as may be appointed by regulation made by the Governor in Council.

Where real tare is known

2. But when the original invoice of any goods is produced, and a declaration of the correctness thereof made as hereinafter provided, the tare according to such invoice shall be deducted from the gross weight of the goods instead of the allowances aforesaid ; subject, however, to such further regulation as the Governor in Council may from time to time make.

Collector, &c., may take samples.

28. The Collector or any Appraiser under this Act, may take samples of any goods imported, for the purpose of ascertaining whether any and what duties are payable on such goods, and such samples shall be disposed of as the Minister of Customs may direct.

ENTRY INWARDS—VALUATION FOR DUTY.

Recital.

29. And inasmuch as it is expedient to make such provisions for the valuation of goods subject to *ad valorem* duties as may protect the revenue and the fair trader against fraud by the undervaluation of any such goods—Therefore, the Governor may from time to time, and when he deems it expedient, appoint fit and proper persons to be Appraisers of goods, and to act as such respectively, at such Ports of entry and places as may be designated for that purpose ;—And each such Appraiser shall, before acting as such, take and subscribe the following oath of office before some Justice of the Peace having jurisdiction where

Appraisers to be appointed.

They shall take an oath of office.

the oath is taken, and shall deliver the same to the Collector at the Port or place, or at one of the Ports or places where he is appointed to act :

"I, A. B., having been appointed an Appraiser of goods, The oath.
 "wares and merchandise, and to act as such at the Port of
 " *(or as the case may be)*, do solemnly swear
 " *(or affirm)* that I will faithfully perform the duties of the said
 "office, without partiality, fear, favour or affection, and that I
 "will appraise the value of all goods, submitted to my appraise-
 "ment, according to the true intent and meaning of the laws
 "imposing duties of Customs in this Dominion; and that I
 "will use my best endeavours to prevent all fraud, subterfuge
 "or evasion of the said laws, and more especially to detect, ex-
 "pose and frustrate all attempts to undervalue any goods, wares
 "or merchandize on which any duty is chargeable. So help
 "me God."

A. B.

Appraiser for
(as the case may be).

"Sworn before me, this day of
 18 "

E. F.

J. P. for *(as the case may be).*

If no Appraiser is appointed at any Port of entry, the Col- Appraisers
may be sent to
any port to ap-
praise goods.
 lector there shall act as Appraiser, but without taking any
 special oath of office as such; And the Minister of Customs may
 at any time direct any Appraiser to attend at any port or place
 for the purpose of valuing any goods, or of acting as Appraiser
 there during any time, which such Appraiser shall accordingly
 do without taking any new oath of office; and every Appraiser
 shall be deemed an Officer of the Customs.

30. In all cases where any duty is imposed on any goods Mode of calcu-
lating value
for *ad valorem*
duties.
 imported into Canada *ad valorem*, or according to the value of
 such goods, such value shall be understood to be the fair market
 value thereof in the principal markets of the country whence
 the same were exported directly to Canada; And every Ap- Duty of offi-
cers.
 praiser and every Collector when acting as such, shall, by all
 reasonable ways and means in his power, ascertain the fair mar-
 ket value as aforesaid of any goods to be appraised by him, and
 estimate and appraise the value for duty of such goods, at the
 fair market value as aforesaid :

2. Nevertheless, by any order of the Governor in Council, it Provision as to
goods merely
passing
through a
Country.
 may be provided that in the cases and on the conditions to be
 mentioned in such order, and while the same is in force, goods
bonâ fide exported to Canada from any Country, but passing *in*
transitu through another Country, shall be valued for duty as

if they were imported directly from such first mentioned Country.

What shall be deemed the fair market value for duty *ad valorem*.

Proviso as to cash articles and discount for cash.

31. The fair market value for duty, of goods imported into Canada, shall be, the fair market value of such goods in the usual and ordinary commercial acceptation of the term at the usual and ordinary credit, and not the cash value of such goods, except in cases in which the article imported is by universal usage considered and known to be a cash article, and so *bonâ fide* paid for in all transactions in relation to such article; and no discounts for cash shall in any case be allowed in deduction of the fair market value as hereinabove defined; and all invoices representing cash values, except in the special cases hereinabove referred to, shall be subject to such additions as to the Collector or Appraiser of the Port at which they are presented, may appear just and reasonable to bring up the amount to the true and fair market value as required by this section.

By 33 V. c. 9, sec. 10 so much of the above sections 30 and 31 as is inconsistent with said section 10 is repealed.

Standards for qualities of sugar.

32. The Standards by which the colour and grades of sugars are to be regulated, and the class to which sugars shall be held to belong, with reference to duty chargeable thereon, shall be selected and furnished from time to time to the collectors of such Ports of entry as may be necessary, by the Minister of Customs, in such manner as he may deem expedient; and the decision of the appraiser, or of the Collector of a Port where there is no appraiser, as to the class to which any imported sugar belongs and the duties to which it is subject, shall be final and conclusive, and the duties shall be paid accordingly; and all cane juice, syrup of sugar or of sugar cane, melado, or concentrated melado or concentrated molasses, entered as molasses or under any other name than cane juice, syrup of sugar or of sugar cane, melado, concentrated melado, or concentrated molasses, shall be forfeited.

Forfeiture for entering certain syrups, &c., under wrong names.

Entry inwards by Bill of Sight—how and in what cases made.

33. If the importer of any goods whereon a duty *ad valorem* is imposed, or the person authorized to make the declaration required with regard to such goods, makes and subscribes a declaration before the Collector or other proper officer, that he cannot, for want of full information, make perfect entry thereof, and takes the oath or affirmation in such cases provided in the Schedule to this Act,—then the Collector or officer may cause such goods to be landed on a Bill of Sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person and at his expense, in the presence of the Collector or principal officer, or of such other officer of the Customs as shall be appointed by the said Collector or other proper officer, and to be delivered to such person on his depositing in the hands of the Collector or officer, a sum of money fully sufficient in the judgment of

Deposit of money for duty.

the Collector or officer to pay the duties thereon;—And if the importer does not complete a perfect entry within the time appointed by the Collector, the money so deposited shall be taken and held to be the duty accruing on such goods, and shall be dealt with and accounted for accordingly;

Provision if perfect entry be not made as stipulated.

2. Such Sight Entry may be made as aforesaid and the goods may be delivered, if such importer or person as aforesaid makes oath or affirms that such invoice has not been, and cannot be produced, and pays to the Collector or proper officer aforesaid a sum of money sufficient in the judgment of such Collector or officer to pay the duties on such goods, and such sum shall then be held to be the amount of the said duties;

If the Importer swears that no invoice has been or can be received.

3. But, except only in cases where it is otherwise provided herein or by regulation of the Governor in Council, no entry shall be deemed perfect unless a sufficient invoice of the goods to be entered, attested as hereinafter required, has been produced to the Collector.

In other cases entry not perfect without invoice.

34. With the Bill of Entry of any goods, there shall be produced and delivered to and left with the Collector, an Invoice of the goods, attested by the oath of the owner, and if the owner be not the person entering such goods, then verified also by the oath of the importer or consignee, or (subject to the provision hereinafter made) other person who may lawfully make such Entry and verify such Invoice, in the form or to the effect of the oath or oaths provided for the case in the Schedule hereunto annexed, which oath or oaths shall be written or printed, or partly written and partly printed on such Invoice, or on the Bill of Entry, (as the case may be), or shall be annexed thereto, and shall in either case distinctly refer to such Invoice so that there can be no doubt as to its being the Invoice to which such oath is intended to apply, and shall be subscribed by the party making it and certified by the signature of the person before whom it is made;—And the Bill of Entry shall also contain a statement of the quantity and value for duty of the goods therein mentioned, and shall be signed by the person making the entry, and shall be verified in the form or to the effect of the oath provided for the case in the said Schedule.

Invoice to be attested on oath by the owner of the goods.

Form of oath.

Bill of Entry to mention the value for duty and to be attested.

35. If there be more than one owner, importer or consignee of any goods, any one of them cognizant of the facts may take the oath required by this Act, and such oath shall be sufficient, unless the goods have not been obtained by purchase in the ordinary way, and some owner resident out of Canada is the manufacturer or producer of the goods, or concerned in the manufacture or production thereof, in which case the oath of such non-resident owner (or of one of them, if there be more than one) cognizant of the facts, shall be requisite to the due attestation of the invoice.

As to any case where there may be more than one owner of goods.

Invoice to be attested by one of the owners of such goods—and also by the importer or consignee.

And also by the oath of the non-resident owner, &c.

Provision for the death, &c. of the owner, importer or consignee.

Party entering may add to the value by the invoice so as to give the true value for the duty.

Importer bound by entry as to value of goods, &c.

Except against the Crown.

Before whom the attestation of invoice or bills of entry may be made.

Governor in Council may appoint other persons before

36. The Invoice of any goods produced and delivered to the Collector with the Bill of Entry thereof, under the next preceding section but one, must if required by the Collector, be attested by the oath of the owner or one of the owners of such goods, and must be verified also by the oath of the Importer or Consignee or other person who may under this Act lawfully make entry of such goods and verify such Invoice, if the owner or one of the owners is not the person entering such goods,—and must also if required by the Collector be attested by the oath of the non-resident owner being the manufacturer or producer of such goods, in the case mentioned in the next preceding section, although one of the owners be the person entering the goods and verifying the Invoice on oath.

37. If the owner, importer or consignee of any goods be dead, or a bankrupt or insolvent, or if for any cause his personal estate be administered by another person, then his executor, curator, administrator or assignee, or person administering as aforesaid, may, if cognizant of the facts, take any oath and make any entry which such owner, importer or consignee might otherwise have taken or made.

38. In any such Bill of Entry as aforesaid, the person making the same, may add such sum to the value stated in the Invoice, as will be sufficient to make the value for duty such as it ought to be, and such value shall then, for the purposes of this Act, stand instead of the value as it would appear by the Invoice;—And no evidence of the value of any goods imported into Canada, or taken out of warehouse for consumption therein, at the place whence and the time when they are to be deemed to have been exported to Canada, contradictory to or at variance with the value stated in the Invoice produced to the Collector, with the additions (if any) made to such value by the Bill of Entry, shall be received in any Court in Canada, on the part of any party except the Crown.

39. The oath required under the foregoing sections may be made in Canada before the Collector at the Port where the goods are entered, or if the person making such oath is not resident there, then before the Collector of some other Port;—And when such oath is required to be made out of the limits of Canada, it may be made at any place within the United Kingdom or at any place in Her Majesty's possessions abroad, before the Collector or before the Mayor or other Chief Municipal Officer of the place where the goods are shipped, and at any other place before the British Consul at such place, or if there is no such Consul, then before some one of the principal merchants at such place, not interested in the goods in question;

2. And the Governor in Council may, from time to time, by Regulation, appoint or designate such other and additional persons, officers or functionaries as he sees fit, by name or by

their name of office, and in Canada or out of it, as those before whom such oath may be validly taken, and may by any Order in Council relax or dispense with the provisions of this Act touching such oath, in or with regard to goods imported by land or inland navigation, or to any other class of cases to be designated in such Regulation ;

whom attestation may be made.

3. No person other than the owner, consignee or importer of the goods of which entry is to be made, shall be allowed to take any oath under the said foregoing sections, unless there be attached to the Bill of Entry therein referred to, a declaration by the owner, consignee or importer of the said goods (or his legal representative under section one hundred and thirty-six of this Act) to the same effect as the oath or affirmation (adapting the form and words to the case) distinctly referring to the Invoice presented with such Bill of Entry, and signed by such owner, importer or consignee (or his legal representative) either in presence of the agent making the entry, who shall attest the signature, or of some Justice of the Peace or Notary Public, who shall attest the same ; And such declaration shall be kept by the Collector ; And for any wilfully false statement in such declaration, the person making the same shall incur the same penalty as if it were made in the oath or affirmation ;—But such written declaration may be dispensed with under the order of the Governor in Council, where it may be deemed advisable in the interests of Commerce, to dispense therewith ;

No person but the owner, etc., to take oath, except in certain cases.

Proviso.

4. The Governor in Council may, by Regulation, authorize the alteration of any of the forms of oaths or affirmations in the said Schedule, by abbreviating the same or omitting any of the allegations therein contained which may appear to him unnecessary ;—And any amended form prescribed by any such Regulation shall be of the same effect as the form in the said Schedule for which it is substituted, and shall thereafter be held to be the form referred to in this Act ; And any such Regulation may from time to time be repealed or amended as other Regulations in matters relating to the Customs.

Governor in Council may alter oaths in Schedule.

40. If any person makes, or sends, or brings into Canada, or causes or authorizes the making, sending, or bringing into Canada, of any Invoice or paper, used or intended to be used as an Invoice for Customs purposes, wherein any goods are entered or charged at a less price or value than that actually charged or intended to be charged for them, no price or sum of money shall be recoverable by such person, his assigns or representatives, for the price or on account of the purchase of such goods or any part of them, or on any bill of exchange, note or other security, unless in the hands of an innocent holder for value without notice, made, given or executed for the price of or on account of the purchase of such goods or any part of such price ; and the production or proof of the existence of any other Invoice, account, document, or paper made or sent

No person making or authorizing a false invoice of any goods, shall recover any part of the price thereof.

Evidence of
Fraud.

by the same person, or by his authority, wherein the same goods or any of them are charged or entered at or mentioned as bearing a greater price than that set upon them in any such Invoice as first above mentioned, shall be *primâ facie* evidence that such first mentioned Invoice was intended to be fraudulently used for Customs' purposes, but such intention, or the actual fraudulent use of such Invoice, may be proved by any other legal evidence.

Collector to re-
tain and file
invoices.

Certified copies
to be evidence.

Fee.

41. The Collectors of Customs, at all the ports in Canada, shall retain and put on file, after duly stamping the same, all Invoices of goods imported at such ports respectively, of which Invoices they shall give certified copies or extracts, whenever called upon so to do by the importers, and such copies or extracts so duly certified by the Collector or other proper officer and bearing the Stamp of the Custom House at which they are filed, shall be considered and received as authentic; and the Collector shall be entitled to demand for each certificate a fee of fifty cents, before delivering the same.

Power of ap-
praiser or col-
lector to ex-
amine the
parties on
oath, &c.

42. Any Appraiser, or any Collector acting as such (or the merchants to be selected as hereinafter mentioned, to examine and appraise any goods, if the importer, owner, consignee or agent is dissatisfied with the first appraisement), may call before him or them and examine upon oath any owner, importer, consignee or other person, touching any matter or thing which such Appraiser or Collector deems material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices or other papers in his possession relating to the same:

Penalty for-
feiting to at-
tend, &c., \$50.

2. And if any person so called neglects or refuses to attend, or declines to answer, or refuses to answer in writing (if required) to any interrogatories, or to subscribe his name to his deposition or answer, or to produce any such papers as aforesaid when required so to do, he shall thereby incur a penalty of fifty dollars, and if such person is the owner, importer or consignee of the goods in question, the appraisement which the Appraiser or Collector acting as such shall make thereof, shall be final and conclusive;

Penalty for
wilfully false
evidence.

Depositions to
be filed in the
office of the
Collector.

3. And if any person wilfully swears falsely in any such examination, and he is the owner, importer or consignee of the goods in question, they shall be forfeited; and all depositions or testimony in writing taken under this section, shall be filed in the office of the Collector at the place where the same are made or taken, there to remain for future use or reference.

Importer dis-
satisfied with
appraisement,
may appeal in
certain cases.

43. If the importer, owner, consignee or agent, having complied with the requirements of this Act, is dissatisfied with the appraisement made as aforesaid of any such goods—he may forthwith give notice in writing to the Collector of such dissatis-

faction, on the receipt of which notice the Collector shall select two discreet and experienced merchants, familiar with the character and value of the goods in question, to examine and appraise the same, agreeably to the foregoing provisions, and if they disagree, the Collector shall decide between them; and the appraisement thus made shall be final and conclusive, and the duty shall be levied accordingly:

Two merchants to be appointed to appraise the goods.

Their appraisement to be final.

2. The said merchants shall each be entitled to the sum of five dollars, to be paid by the party dissatisfied with the former appraisement if the value ascertained by the second appraisement is equal to or greater than that ascertained by such former appraisement, or if the value ascertained by such second appraisement exceeds by ten per cent. or more the value of the goods for duty, as it would appear by the Invoice and Bill of entry thereof—otherwise the same shall be paid by the Collector out of any public moneys in his hands and charged in his accounts;

Remuneration of such merchants, and by whom paid.

3. Any merchant chosen to make an appraisement required under this Act, who after due notice of such choice has been given to him in writing, declines or neglects to make such appraisement, shall, for so refusing or neglecting, incur a penalty of forty dollars and costs.

Penalty for refusing to act.

44. If in any case the actual value for duty of any goods as finally determined by the appraiser or collector acting as such, or under the next preceding section, in the case therein mentioned, exceeds by twenty per centum or more the value for duty as it would appear by the Invoice and Bill of Entry thereof, then in addition to the duty otherwise payable on such goods, when properly valued, there shall be levied and collected upon the same a further duty equal to one half the duty so otherwise payable;—And the value of any goods for duty shall never be appraised at less than the value for duty as it would appear by the Invoice and Bill of Entry.

Additional duty in cases of undervaluation.

Appraised value never to be less than invoice value.

45. On the entry of any goods, the decision of the Collector of Customs at the port of entry, as to the rate and amount of duties to be paid on such goods, shall be final and conclusive against all persons interested therein, unless the owner, importer, consignee or agent of the goods, do within ten days after the ascertainment and liquidation of the duties by the proper officers of customs, and whether the goods are entered in bond or for consumption, give notice in writing to the collector on each entry, if dissatisfied with his decision, setting forth therein distinctly and specifically the grounds of his objection thereto, and do within thirty days after the date of such ascertainment and liquidation appeal therefrom to the Minister of Customs, whose decision on such appeal, or in his absence the decision of any other member of the Executive Council who may be appointed by the Governor in Council for that purpose.

Duties fixed by Collector to be final unless appealed from within a certain time to Minister of Customs.

No suits for recovery until after decision on appeal.

Proviso.

shall be final and conclusive, and such goods shall be liable to duty accordingly, unless suit be brought within sixty days after the decision on such appeal, for any duties which shall have been paid before the date of such decision, on such goods, or within sixty days after the payment of duties paid after such decision; And no suit shall be maintained in any court for the recovery of any duties alleged to have been erroneously or illegally exacted, until such decision as last mentioned shall have been first had on such appeal; Provided that such decision shall be given within thirty days after such appeal has been lodged with the Minister of Customs.

Value of prize goods how ascertained for duty.

46. The value of goods chargeable with *ad valorem* duties, brought into Canada under the denomination of prize goods, or which shall be sold by order of the court of vice admiralty, or which shall become forfeited and be sold as such, shall, if the value thereof cannot be ascertained by the means hereinbefore prescribed, be determined by the gross price which the same shall bring at public auction: and the purchasers shall be considered the importers and pay the duties thereon.

ENTRY INWARDS—POWERS OF COLLECTOR FOR ENSURING FAIR VALUATION.

Collector may take the duty in kind.

47. The Collector may always, when the value of the goods is in dispute, and when he deems it advisable in order to protect the revenue and the fair trader from fraud by undervaluation, and when the same is practicable, and subject always to such Regulations as may be made by the Governor in Council,—take the amount of the duty chargeable on any article on which an *ad valorem* duty is payable (after deducting one eleventh of the duty) in the article itself, taking any specific duty at the rate at which the article is valued for duty by the owner, importer, agent or consignee, that is to say:—if the duty after such deduction is ten per cent *ad valorem*, he may take one tenth of such goods, and if there be any specific duty thereon, he may also take such quantity of the said goods as at the value last aforesaid will be equivalent to the amount of such specific duty after deducting one eleventh as aforesaid;—And out of any number of packages or quantities in the same Invoice or Bill of Entry, the Collector may take his choice at the rates therein assigned to such articles respectively;—And such goods so taken shall be sold or dealt with in such manner as may be provided by regulation of the Governor in Council.

Mode of taking the same, etc.

May take his choice of packages.

Goods taken, how dealt with.

Collector may take goods on paying the value assigned in the bill of entry, adding ten per cent and charges.

48. The Collector may always, when he deems it expedient for the protection of the Revenue, and the fair trader, and subject always to any regulations to be made by the Governor in Council in that behalf,—detain and cause to be properly secured, and may at any time within fifteen days declare his option to take, and may take for the Crown, any whole package or packages, or separate and distinct parcel or parcels, or the whole of the

goods mentioned in any Bill of Entry, and may pay, when thereunto requested, to the owner or person entering the same, and out of any public moneys in the hands of such Collector, the sum at which such goods, packages or parcels, are respectively valued for duty in the Bill of Entry, and ten per cent. thereon, and also the fair freight and charges thereon to the Port of Entry, and may take a receipt for such sum and addition when paid;—And the goods so taken, shall (whether such payment be requested or not) belong to the Crown from the time they are so taken as aforesaid, and shall be sold or otherwise dealt with in such manner as shall be provided by any regulation in that behalf, or as the Minister of Customs shall direct, and the net proceeds of the sale of any such goods, shall be dealt with as moneys arising from duties of Customs :

How such goods may be dealt with.

2. And if the net proceeds of any such sale, exceed the amount paid as aforesaid for the goods, then any part of the surplus, not exceeding fifty per centum of such surplus, may under any Regulation or Order of the Governor in Council, be paid to the Collector, Appraiser or the other officer concerned in the taking thereof, as a reward for his diligence.

Bonus to collector, appraiser, &c., for diligence.

49. The Collector shall cause at least one package in every invoice, and at least one package in ten if there be more than ten in any Invoice, and so many more as he or any Appraiser deems it expedient to examine for the protection of the revenue to be sent to the warehouse and there to be opened, examined, and appraised, the packages to be so opened being designated by the Collector; And if any package is found to contain any goods not mentioned in the Invoice, such goods shall be absolutely forfeited, and if any goods are found which do not correspond with the description thereof in the invoice, and such omission or non-correspondence appears to have been made for the purpose of avoiding the payment of the duty or of any part of the duty on such goods,—or if in any Invoice or entry any goods have been undervalued with such intent as aforesaid,—or if the oath or affirmation made with regard to any such Invoice or Entry is wilfully false in any particular, then in any of the cases aforesaid all the packages and goods included or pretended to be included, or which ought to have been included in such Invoice or Entry, shall be forfeited.

Collector to cause a certain number of packages in every entry to be opened, &c.

Forfeiture of goods not mentioned in invoice, or fraudulently under-valued, &c.

Or for false statement in any oath, &c.

50. All the packages mentioned in any one Entry, although most of such packages may have been delivered to the importer, shall be subject to the control of the Customs authorities of the port at which they are entered, until such of the packages as have been sent for examination to the Examining Warehouse, shall have been duly examined and approved, provided such examination takes place within three days after the delivery of the package or packages into the Examining Warehouse, and after twenty-four hours notice by the importer to the collector; and a bond shall be given by the importer conditioned

Provision as to packages delivered to importer before examination.

Bond to be given.

Proviso : for
avoiding de-
lay.

that the packages so delivered shall not be opened or unpacked before the package or packages sent to the Examining Warehouse shall have been examined and passed as aforesaid, provided they are examined within the delay aforesaid ; and the packages so delivered, or the goods if lawfully unpacked, shall, if required by the Collector of Customs, be returned to the Custom House within such delay as may be mentioned in the bond, under a forfeiture of the penalty of such bond ; provided that the Collector shall use due diligence in causing such examination to be made, and may, if he sees no objection, permit the remaining packages to be opened and unpacked, as soon as those sent to the warehouse have been examined and approved :

Nature and
amount of
Bond.

2. The Bond above mentioned may be a general bond covering the entries to be made by the Importer for a period of twelve months from its date, and the penal sum shall be equal to the value of the largest importation made by the Importer in question at any one time during the twelve months next immediately preceding ; or if such Importer has made no importations by which, in the opinion of the Collector, such penal sum can be properly fixed, the Collector shall fix the amount thereof, at such sum as he deems equitable.

ENTRY INWARDS—GENERAL PROVISIONS.

Onus of
proof on due
entry, on
whom to lie.

51. The burden of proof that all the requirements of this Act with regard to the Entry of any goods, have been complied with and fulfilled, shall in all cases lie upon the parties whose duty it was to comply with and fulfil the same.

Duty paid
goods may be
branded or
marked under
regulations
be made by
the Governor
in Council

52. And whereas it is expedient that certain goods when imported into Canada should be marked or branded with such mark or brand as may be deemed necessary, in order to denote the payment of the duty to which such goods are liable : Therefore the Governor in Council may by regulation, direct that after any goods have been entered at the Custom House, and before the same are discharged by the officers and delivered into the custody of the importer or his agent, such goods shall be marked or stamped in such manner or form as may be directed by such regulation for the security of the Revenue, and by such officer as may be directed or appointed for that purpose.

Permit certifi-
ing that duties
have been paid
on any goods
to be granted
at the request
of the owner.

53. When any person has occasion to remove from any port of entry to any other port or place, any goods duly entered, and on which the duties imposed by law have been paid,—the Collector or principal officer of the Customs at such port, on the requisition in writing of such person, within thirty days after the entry of such goods, specifying the particular goods to be removed, and the packages in which such goods are contained with their marks and numbers,—shall give a permit or certificate in writing, signed by him, bearing date of the day it is made, and containing the like particulars and certifying that

such goods have been duly entered at such port and the duties paid thereon, and stating the port or place at which the same were paid, and the port or place to which it is intended to convey them, and the mode of conveyance, and the period within which they are intended to be so conveyed.

Particulars in such permits.

WAREHOUSING GOODS.

54. The following Ports shall be Warehousing Ports for the purposes of this Act, viz :—Belleville, Brockville, Cobourg, Colborne, Dalhousie, Fredericton, Goderich, Halifax, Hamilton, Hope, Kingston, London, Maitland (on the Grand River,) Montreal, Niagara, Prescott, Quebec, Stanley, St. John New Brunswick, St. John Quebec, Toronto, as shall also such other Ports of Entry as the Governor in Council may from time to time appoint to be Warehousing Ports.

What shall be Warehousing Ports.

Governor may appoint others.

55. The importer of any goods into Canada may enter the same for exportation, on giving security by his own bond with one sufficient surety, for the exportation of the same goods—or may warehouse the same on giving such security by his own bond for the payment of the amount of all duties on such goods, and the performance of all the requirements of this Act with regard to the same, the penalty of such bond being double the amount of the duty to which such goods are subject (without payment of any duties in either case on the first entry thereof,) at such ports or places as aforesaid, and in such warehouses, and subject to such rules and regulations, as may be from time to time appointed by the Governor in Council in that behalf, not being repugnant to this Act :

Goods may be entered for exportation, or warehoused without payment of duties subject to regulations of Governor in Council.

2. During the regular warehouse hours, and subject to such regulations as the Collector or proper officer of Customs at the warehousing ports sees fit to adopt, (as well for the carrying and taking of such goods to the warehouse as for other purposes,) such importer may sort, pack, repack or make such lawful arrangements respecting the same, in order to the preservation or legal disposal thereof, and may take therefrom moderate samples without present payment of duty or entry, and may remove the same under the authority of the said officer, from such warehousing port to any other warehousing port in Canada, under good and sufficient bonds to the satisfaction of such officer, or upon entry at any frontier port or Custom House, under the authority and with the sanction of the Collector or chief officer of Customs at such port or Custom House, and under bonds to his satisfaction, and subject to such regulations as may be made in that behalf by the Governor in Council, the importer may pass the goods on to any warehousing port in any other part of Canada ;

Importer may sort or repack goods in warehouse for their preservation or disposal, and may take samples ;

And may remove the same in bond ;

And may pass the same on to any other Warehousing port, in Bond, &c.

3. All such goods shall be finally cleared, either for exportation or home consumption, within two years from the date of

Goods to be finally cleared within two years.

In default,
collector may
sell.

the first entry and warehousing thereof; and in default thereof, the Collector or proper officer may sell such goods for the payment, first of the duties, and secondly of the warehouse rent and other charges, and the surplus, if any, shall be paid to the owner or his lawful agent,—and the Collector or proper officer may charge or authorize the occupier of the warehouse to charge a fair warehouse rent, subject to any regulation made by the Governor in Council in that behalf;

Importer may
be allowed to
abandon pack-
ages, and not
to be liable for
duty.

4. But the collector may, if he sees no reason to refuse such permission, permit the importer to abandon any whole package or packages, for duties, without being liable to pay any duty on the same; and the same shall then be sold and the proceeds shall be dealt with as the duties would have been if paid;

Bonds for du-
ties in ware-
house may be
dispensed with
in certain
cases.

The Governor in Council may, by Regulations to be from time to time made in that behalf, dispense with or provide for the cancelling of Bonds for the payment of duties on goods actually deposited in warehouse under the Crown's Lock, on such terms and conditions and in such cases as he thinks proper;

Liability for
freight.

6. Goods warehoused shall continue to be liable for freight as if on shipboard.

Goods taken
out for ex-
portation and
relanded, &c.,
to be forfeited.

56. If any goods entered to be warehoused are not duly carried into and deposited in the warehouse—or having been so are afterwards taken out of the warehouse without due entry and clearance,—or having been entered and cleared for exportation from the warehouse, are not duly carried and shipped, or otherwise conveyed out of Canada, or are afterwards relanded, sold, used or brought into Canada, without the permission of the proper officer of the Customs,—such goods shall be forfeited.

Goods taken
out of ware-
house, subject
to duties.

57. All goods taken out of warehouse shall be subject to the duties to which they would be liable if then imported into Canada, and not to any other.

Cattle and
swine may be
slaughtered,
&c., and grain
ground, in
bond, under
regulations to
be made by
the Governor
in Council.
To extend to
the substitu-
tion of beef
and pork, &c.

58. The importer of any cattle or swine may slaughter and cure and pack the same (or if such cattle or swine are imported in the carcass, may cure and pack the same) in bond; and the importer of any wheat, maize or other grain, may grind and pack the same in bond,—provided such slaughtering, curing, grinding and packing be done and conducted under such regulations and restrictions as the Governor in Council may from time to time make for this purpose; and the said regulations may extend to the substitution of beef and pork, flour and meal in quantities equivalent to the produce of such cattle and swine, wheat, maize or other grain.

Sugar may be
refined in
bond.

59. The importer or owner of any sugar, molasses or other material from which refined sugar can be produced may refine

the same in bond,—provided such refining be done and conducted under such regulations and restrictions as the Governor in Council may from time to time make and impose for that purpose; and the same regulations may extend to the substitution of refined sugar in quantities equivalent to the produce of the sugar or other material so refined in bond.

60. The property of any whole package or packages, of any goods so warehoused shall be transferable from party to party on a *bonâ fide* bill of sale by the parties, or executed and delivered by a broker or other person legally authorized for or in behalf of the parties respectively.

Property in bond, how to be transferable.

2. And any such sale shall be valid for the purposes of this Act, although the goods remain in the warehouse, provided that a transfer of such goods, according to the sale, is entered and signed by the parties in a book to be kept for that purpose by the Collector or other proper officer of the Customs, who shall keep such book and enter such transfers, with the dates thereof, upon application of the owners of the goods, and shall produce such book upon demand made;

Transfers to be entered by the Collector in a book to be open to the Public.

3. And upon such sale, the proper officer may admit fresh security to be given by the bond of the new proprietor of the goods or person having the control over the same (with his sufficient surety, in cases where the former bond was given with surety), and may cancel the bond given by the original bond of such goods, or may exonerate him (and his surety if any he had), to the extent of the fresh security so given; and the party being the proprietor of any such goods for the time being, shall then be deemed to be the importer thereof for the purposes of this Act.

New Proprietor may give bond, etc.

Bond of original bond may be cancelled.

Proprietor to be deemed the importer.

61. The Governor in Council may, by regulation, authorize such allowance to be made for leakage, natural and unavoidable waste or deficiency on goods warehoused, as he deems expedient; but, except where it is otherwise provided by such regulations, the duties shall be payable on the quantity originally warehoused.

Allowance for leakage, etc., how made.

62. The unshipping, carrying and landing of all goods, and the bringing of the same to the examining warehouse or the proper place after landing, warehouse rent and expenses of safe keeping in warehouse, shall be performed by or at the expense of the importer of such goods, and in such manner and at such place as shall be appointed by the Collector or proper officer of Customs; and if any such goods be removed from the place so appointed without leave of such Collector or proper officer, they shall be forfeited.

All charges and expenses of unshipping, landing, etc., to be borne by the importer.

63. No parcel of goods shall be taken out of warehouse, whether for consumption or exportation, or removal to some other port, unless the duties thereon amount to the sum of

Not less than a certain quantity of goods to be taken out of

warehouse at one time. twenty dollars or upwards, or such parcel be all the goods remaining in warehouse and comprised in the same entry for warehousing.

Goods entered for warehousing to be deemed warehoused in certain cases.

64. If after any goods have been duly entered, or landed to be warehoused, or entered and examined to be re-warehoused, and before the same have been actually deposited in the warehouse, the importer further enters the same or any part, for home use or for exportation as from the warehouse—the goods so entered shall be considered as virtually and constructively warehoused or re-warehoused, as the case may be, although not actually deposited in the warehouse, and may be delivered and taken for home use or for exportation.

Bond to be given on entry for exportation of goods from warehouse—conditions.

65. Upon the entry outwards of any goods to be exported from the Customs' warehouse, either by sea or by land or inland navigation, as the case may be, the person entering the same shall give security by bond, in double the duties of importation on such goods, and with a sufficient surety, to be approved by the Collector or proper officer, that the same shall, when the entry aforesaid is by sea, be actually exported; and when the entry aforesaid is by land or inland navigation, shall be landed or delivered at the place for which they are entered outwards, or shall in either case be otherwise accounted for to the satisfaction of the Collector or proper officer, and that such proof or certificate that such goods have been so exported, landed or delivered, or otherwise legally disposed of, as the case may be, as shall be required by any regulation of the Governor in Council, shall be produced to the Collector or proper officer within a period to be appointed in such bond, and if any such goods are not so exported or are fraudulently relanded in or brought into Canada, in contravention of this Act and of the said bond, they shall be forfeited together with any vessel, boat or vehicle in which they are so relanded or imported.

Forfeiture for contravention of conditions.

Who only may enter for exportation.

66. Any person making any entry outwards of goods from warehouse for exportation, not being the owner or duly authorized by the owner thereof, or the master of the vessel by which they are to be shipped shall, for each offence, forfeit two hundred dollars.

Upon what evidence the bond may be cancelled.

67. If within the period appointed as aforesaid from entry outwards there be produced a certificate annexed to the shipping warrant and signed by some principal officer of the customs or colonial revenue at the place to which the goods were exported, or if such place be a foreign country, of any British consul or vice consul resident there, or an affidavit annexed to the warrant of any person resident at the place and certified by a notary public or magistrate, and in such certificate or affidavit it be stated that the goods were actually landed at some place out of Canada, as provided by the bond, or that they were lost, or that the vessel had never arrived at her destination and is

supposed to be lost, the bond mentioned in the next preceding section shall be cancelled: all bonds not so cancelled within the period so appointed as aforesaid shall be enforced.

68. Warehoused goods may be delivered as ships' stores for any vessel of the burden of fifty tons or upwards, bound on a voyage beyond seas, the probable duration of which out and home will not be less than thirty days, proof being first made by affidavit of the master or owner to the satisfaction of the proper officer, that the stores are necessary and intended for the voyage.

Warehoused
goods taken as
ships' stores.

ENTRY OUTWARDS.

69. The master of every vessel bound outwards from any port in Canada to any port or place beyond seas, or on any voyage to any place within or without the limits of Canada, coastwise or by inland navigation, shall deliver to the Collector or other proper officer an entry outwards under his hand, of the destination of such vessel, stating her name, country and tonnage (and if British, the port of registry), the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such vessel; and before any goods or ballast are taken on board such vessel the master shall show that all goods imported in her, except such as were reported for exportation in the same vessel, have been duly entered,—except that the proper officer may issue a stiffening order that such goods or ballast as may be specified therein may be laden before the former cargo is discharged:

Entry of vessel
outwards.

Particulars of
such entry.

Stiffening
order.

2. And before such vessel departs, the master shall bring and deliver to the Collector, or other proper officer, a content in writing under his hand, of the goods laden, and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content as far as any of such particulars can be known to him;

Content to be
delivered.

Particulars re-
quired in it.

Declaration to
be made.

3. And the master of every such vessel, whether in ballast or laden, shall, before departure, come before the Collector or other proper officer, and answer all such questions concerning the vessel, and the cargo, if any, and the crew, and the voyage, as may be demanded of him by such officer, and if required shall make his answers or any of them part of the declaration made under his hand, as aforesaid;—and thereupon the Collector or other proper officer, if such vessel is laden, shall make out and give to the master a certificate of the clearance of such vessel for her intended voyage, with merchandize or a certificate of her clearance in ballast, as the case may be; and if there be merchandize on board, and the vessel is bound to any port in Canada, such clearance shall state whether any and

Questions to be
answered.

Clearance to
be granted.

Contents.

which of the goods are the produce of Canada, and if the goods are such as are liable to duties, whether the duties thereon have been paid; and in such case the master shall hand the clearance to the Collector at the next port in Canada at which he arrives, immediately on his arrival;

Penalty for leaving without a clearance or not answering questions truly.

4. And if the vessel departs without such clearance, or if the master delivers a false content, or does not truly answer the questions demanded of him, he shall forfeit the sum of four hundred dollars.

Dispensation as to coasting trade.

5. The Governor in Council may by Regulation, dispense with any of the preceding requirements of this section, which he deems it inexpedient to enforce, with regard to vessels generally or to vessels engaged in the coasting trade or inland navigation.

Governor in Council may require statistical information as to exports.

70. The Governor in Council may, by Regulations to be, from time to time, made in that behalf, require such information with regard to the description, quantity, quality and value of goods exported from Canada, or removed from one port to another in Canada, to be given to the proper Officer of the Customs, in the entry of such goods outwards or otherwise, as he deems requisite for statistical purposes, whether such goods be exported or removed by sea, land or inland navigation.

Entry outwards of goods from warehouse must correspond with entry inwards.

71. No entry outwards nor any shipping warrant or warrant for taking goods from warehouse for exportation, shall be deemed valid, unless the particulars of the goods and packages shall correspond with the particulars in the entry inwards, nor unless they shall have been properly described in the entry outwards, by the character, denomination and circumstances under which they were originally charged with duty; and any goods laden or taken out of the warehouse by an entry outwards or shipping warrant not so corresponding or not properly describing them, shall be forfeited.

Entry outwards by agent in certain cases.

72. If the owner of any goods be resident more than ten miles from the office of the Collector at the port of shipment he may appoint an agent to make his entry outwards and clear and ship his goods, but the name of the agent and the residence of the owner shall be subjoined to the name in the entry and shipping warrant, and the agent shall make the declaration on the entry which is required of the owner, and shall answer the questions that shall be put to him; any trading corporation or company may appoint an agent for the like purposes.

STEAMERS—ENTRY INWARDS AND OUTWARDS.

Reports inwards or outwards may be made

73. The Report for entry, inwards or outwards, required by this Act, may, in the case of any steam vessel carrying a purser, be made by such purser with the like effect in all respects, and

subject to the like penalty on the purser and the like forfeiture of the goods in case of any untrue report, as if the report were made by the master;—and the word “Master,” for the purposes of this section, shall be construed as including the purser of any steam vessel; but nothing herein contained shall preclude the Collector or proper officer of Customs from calling upon the master of any steam vessel, to answer all such questions concerning the vessel, passengers, cargo and crew, as might be lawfully demanded of him if the report had been made by him, or to exempt the master from the penalties imposed by this Act for failure to answer any such question, or for answering untruly, or to prevent the master from making such report if he shall see fit so to do

by pursers
of Steamers.

Proviso.

BILLS OF HEALTH.

74. Whenever the Collector of Customs at any port is satisfied that in such port as well as in the adjacent city or town and its vicinity, there does not exist an extraordinary infectious, contagious or epidemic disease, which could be transferred by the vessel, her crew or cargo, he may grant to any vessel requiring a bill of health, a certificate under his hand and seal attesting the fact aforesaid, for which he shall be entitled to ask and receive a fee of one dollar.

Collectors
may grant
bills of health.

SMUGGLING—AND OFFENCES CONNECTED THEREWITH.

75. If any person knowingly and wilfully, with intent to defraud the revenue of Canada, smuggles or clandestinely introduces into Canada any goods subject to duty, without paying or accounting for the duty thereon, or makes out, or passes, or attempts to pass through the Custom House, any false, forged or fraudulent invoice, or in any way attempts to defraud the revenue by evading the payment of the duty or of any part of the duty on any goods, every such person, his, her, or their aiders or abettors shall, in addition to any other penalty or forfeiture to which they may be subject for such offence, be deemed guilty of a misdemeanour, and on conviction shall be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding one year, or both, in the discretion of the Court before whom the conviction is had.

Penalty on
persons smug-
gling goods,
using false
invoices, &c.

Misdemeanour

Imprisonment.

76. If any person offers for sale any goods under pretence that the same are prohibited, or have been unshipped and run on shore, or brought in, by land or otherwise, without payment of duties, then and in such case all such goods (although not liable to any duties nor prohibited) shall be forfeited, and every person offering the same for sale shall forfeit the treble value of such goods, or the penalty of two hundred dollars, at the election of the prosecutor, which penalty shall be recoverable in a summary way, before any one or more Justices of the Peace; and in default of payment on conviction, the party so

Forfeiture and
penalty for
offering for
sale goods pre-
tended to be
smuggled.

offending shall be committed to any of Her Majesty's Jails for a period not exceeding sixty days.

Penalty for
harbouring
smuggled
goods.

77. If any person knowingly harbours, keeps, conceals, purchases, sells or exchanges any goods illegally imported into Canada, (whether such goods are dutiable or not) or whereon the duties lawfully payable have not been paid, such person shall for such offence forfeit treble the value of the said goods, as well as the goods themselves.

Company of
persons found
with smuggled
goods.

Misdemeanour.

78. If any five or more persons in company are found together and they or any of them have any goods liable to forfeiture under this Act, every such person shall be guilty of misdemeanour and punishable accordingly.

Penalty for
hiring persons
to assist in
smuggling, &c.

79. Any person who by any means procures or hires any person or persons, or who deposes, authorizes or directs any person or persons to assemble for the purpose of being concerned in the landing or unshipping or carrying or conveying any goods which are prohibited to be imported, or the duties for which have not been paid or secured, shall, for every person so procured or hired, forfeit the sum of one hundred dollars.

Penalty on
persons com-
mitting certain
offences with
regard to ware-
housed goods.

80. If any warehoused goods are fraudulently concealed in or removed from any public or private warehouse in Canada, such goods shall be forfeited;—And any person fraudulently concealing or removing any such goods, or aiding or abetting such removal, shall incur the penalties imposed on persons illegally importing or smuggling goods into Canada :

Penalty for
fraudulently
opening ware-
house.

2. And if the importer or owner of any warehoused goods, or any person in his employ, by any contrivance fraudulently opens the warehouse in which the goods are, or gains access to the goods except in the presence of or with the express permission of the proper officer of the Customs acting in the execution of his duty, such importer or owner shall for every such offence forfeit the sum of one hundred dollars.

Penalty for
altering or de-
facing marks.

3. And any person wilfully altering, defacing or obliterating any mark placed by any officer of the Customs on any package of warehoused goods, or goods in transit, shall for every such offence forfeit the sum of five hundred dollars.

Spirits not to
be imported
except in cer-
tain vessels
and packages.

81. Except in cases which by any Regulation to be made by the Governor in Council may be excepted from the operation of this section, all spirits (unless in bottle and imported from the United Kingdom or in bond from a bonded warehouse in some British Possession) brought into Canada in casks or packages of less size than to contain one hundred gallons, or in other than decked vessels of not less than thirty tons register, or that may be found on board of any vessel under such tonnage in any port in Canada, shall be forfeited, and the proof that any spirits

Onus of proof
of legal impor-
tation.

landed in packages of less size than to contain one hundred gallons, have been lawfully imported and entered, shall always be upon the person offering the same for sale.

82. All vessels with the guns, tackle, apparel and furniture thereof, carriages, harness, tackle, horses, and cattle made use of in the removal of any goods liable to forfeiture under this Act, shall be forfeited; and every person assisting or otherwise concerned in the unshipping, landing or removal, or in the harbouring of such goods, or into whose hands or possession the same knowingly come, shall, besides the goods themselves, forfeit treble the value thereof, or the penalty of two hundred dollars at the election of the officer of Customs or other party suing for the same :

Vessels, &c., used in conveying forfeited goods to be forfeited.

Penalty for assisting in landing, &c., such goods.

2. And the averment in any information or libel exhibited for the recovery of such penalty, that such officer or party has elected to sue for the sum mentioned in the information or libel, shall be sufficient proof of such election, without any other evidence of the fact.

Election of officer as to penalty how proved.

83. If any vessel is found hovering (in British waters) within one league of the coasts or shores of Canada, any officer of Customs may go on board and enter into such vessel, and freely stay on board such vessel, while she remains within the limits of Canada or within one league thereof—And if any such vessel is bound elsewhere, and so continues hovering for the space of twenty-four hours after the master has been required to depart by such officer of Customs, such officer may bring the vessel into port, and examine her cargo, and if any goods prohibited to be imported into Canada are found on board, then such vessel with her apparel, rigging, tackle, furniture, stores and cargo, shall be forfeited;—And if the master or person in charge refuses to comply with the lawful directions of such officer, or does not truly answer such questions as are put to him, respecting such ship and vessel or her cargo, he shall forfeit and pay the sum of four hundred dollars.

Vessels found hovering may be boarded and examined.

Vessels continuing to hover may be brought into Port.

Penalty for not obeying the officer boarding.

84. Every person proved to have been on board any vessel or boat liable to forfeiture for having been found within one league of the coasts or shores of Canada, having on board or attached thereto, or conveying or having conveyed any thing subjecting such vessel or boat to forfeiture, or who shall be proved to have been on board any vessel or boat from which any part of the cargo shall have been thrown overboard or destroyed, or in which any goods shall have been unlawfully brought into Canada, shall forfeit one hundred dollars, provided such person shall have been knowingly concerned in such acts.

Penalty on persons on board smuggling vessels.

85. Officers of Customs may board any vessel at any time or place and stay on board until all the goods intended to be unladen shall have been delivered: they shall have free access to

Officers may board vessels and have free access to every part.

every part of the vessel, with power to fasten down hatchways, the forecastle excepted, and to mark and secure any goods on board; and if any place, box or chest be locked, and the keys withheld, the officer may open the same. If any goods be found concealed on board they shall be forfeited, and if any mark, lock, or seal upon any goods on board, be wilfully altered, opened or broken, before the delivery of the goods, or if any goods be secretly conveyed away, or if hatchways fastened down by the officer be opened by the master, or with his assent, the master shall forfeit four hundred dollars.

May be stationed on board.

86. The Collector or other proper officer of the Customs may station officers on board any ship while within the limits of a port, and the master shall provide every such officer with suitable accommodation and food under a penalty of two hundred dollars.

Penalty for forging marks, &c., or selling goods with counterfeit marks.

87. If any person at any time forges or counterfeits any mark or brand to resemble any mark or brand provided or used for the purposes of this Act, or forges or counterfeits the impression of any such mark or brand, or sells or exposes to sale, or has in his custody or possession, any goods with a counterfeit mark or brand, knowing the same to be counterfeit, or uses or affixes any such mark or brand to any other goods required to be stamped as aforesaid, other than those to which the same was originally affixed, such goods so falsely marked or branded shall be forfeited, and every such offender, and his aiders, abettors or assistants, shall, for every such offence, forfeit and pay the sum of two hundred dollars; which penalty shall be recoverable in a summary way, before any two Justices of the Peace in Canada, and in default of payment the party so offending shall be committed to any of Her Majesty's Jails in Canada, for a period not exceeding twelve months:

Imprisonment in default of payment.

Falseswearing to be perjury.

2. And if any wilfully false oath be made in any case whereby this Act an oath is required or authorized, the party making the same shall be guilty of wilful and corrupt perjury, and liable to the punishment provided for that offence.

Penalty for counterfeiting or using counterfeit papers, &c

88. If any person counterfeits or falsifies, or uses when so counterfeited or falsified, any paper or document required under this Act or for any purpose therein mentioned, whether written, printed, or otherwise, or by any false statement procures such document, or forges or counterfeits any certificate relating to any oath, affirmation or declaration, hereby required or authorized, knowing the same to be so forged or counterfeited, such person shall be guilty of a misdemeanour and being thereof convicted, shall be liable to be punished accordingly.

Or forging certificates &c.

Penalty for a false declaration or answer in cases not

89. Except in the cases otherwise provided for, if any declaration required to be made by this Act or by any Law relating to the Customs, or to trade or navigation, is untrue in

any particular, or except as aforesaid, if any person required by this Act or by any other law as aforesaid to answer questions put to him by any officer of the Customs touching certain matters, does not truly answer such questions,—the person making such untrue declaration or not truly answering such questions, shall over and above any other penalty to which he becomes subject, forfeit the sum of four hundred dollars. otherwise provided for.¶

90. Every officer and person employed under the authority of the Act respecting the collection and management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants, passed during the present Session, or in the collection of the revenue within the meaning of that Act, or under the direction of any officer or officers in the Customs Department, or being an officer of the said department, shall be deemed and taken to be duly employed for the prevention of smuggling;—And in any suit or information, the averment that such party was so duly employed shall be sufficient proof thereof, unless the defendant in such suit or information shall prove to the contrary : Officers employed in the Customs to be deemed employed for the prevention of smuggling. What averment of such employment shall suffice.

2. Any such officer or person as aforesaid, and any Sheriff or Justice of the Peace, or person residing more than ten miles from the residence of any officer of Customs and thereunto authorized by any Collector of Customs or Justice of the Peace, may, upon information or upon reasonable grounds of suspicion, detain, open and examine any package suspected to contain prohibited property or smuggled goods, and may go on board of and enter into any vessel, boat, canoe, carriage, waggon, cart, sleigh, or other vehicle or means of conveyance of any description whatsoever, and may stop and detain the same, whether arriving from places beyond or within the limits of Canada, and may rummage and search all parts thereof, for prohibited, forfeited or smuggled goods ;—And if any such prohibited, forfeited or smuggled goods are found in any such vessel or vehicle, the officer or person so employed may seize and secure such vessel or vehicle, together with all the sails, rigging, tackle, apparel, horses, harness and all other appurtenances which at the time of such seizure belong to or are attached to such vessel or vehicle, with all goods and other things laden therein or thereon, and the same shall be forfeited ; Their powers : To search. To detain vessels, carriages &c. To seize in certain cases.

3. The officer or person in the discharge of the said duty may call in such lawful aid and assistance in the Queen's name, as may be necessary for securing and protecting such seized vessels, vehicles or property ;—And if no such prohibited, forfeited or smuggled goods are found, such officer or person, having had reasonable cause to suspect that prohibited, forfeited or smuggled goods would be found therein, shall not be liable to any prosecution or action at law for any such search, detention or stoppage ; To call on persons to assist. Reasonable cause of suspicion to be their justification.

Penalty for refusing to stop: 4. Every master or person in charge of any such vessel, and every driver or person conducting or having charge of any such vehicle or conveyance, refusing to stop when required to do so by such officer or person as aforesaid in the Queen's name, and any person being present at any such seizure or stoppage, and being called upon in the Queen's name by such officer or person to aid and assist him in a lawful way, and refusing so to do, shall forfeit and pay the sum of two hundred dollars, which penalty shall be summarily recovered before any two Justices of the Peace in Canada, and in default of payment the offender shall be committed to any of Her Majesty's Jails in Canada, for a period not exceeding six months.

Or to assist.

Mode of recovery.

Power to enter building, etc., in the daytime. **91.** Any officer of Customs having first made oath before a Justice of the Peace that he has reasonable cause to suspect that goods liable to forfeiture are in any particular building, may, in company with a peace officer who is hereby required to accompany him, enter such building at any time between sunrise and sunset, but if the doors are fastened then admission shall be first demanded, and the purpose for which entry is required declared, when, if admission shall not be given, the two officers may forcibly enter, and when in either case entry shall be made, the Customs officer shall search the building and seize all forfeited goods: these acts may be done by an officer of Customs without oath or the assistance of a Justice of the Peace, in places where no Justice resides, or where no Justice can be found within five miles at the time of search.

Writs of assistance how obtainable, and the powers of those acting under them. **92.** Under authority of a Writ of Assistance granted either before or after the coming into force of this Act (and all such Writs theretofore granted shall remain in full force for the purposes of this Act), by any Judge of the Court of Queen's Bench or of the Common Pleas in the Province of Ontario, of the Superior Court or of the Court of Vice Admiralty in the Province of Quebec, or of the Supreme Court in Nova Scotia, or of the Court of Queen's Bench in New Brunswick, having jurisdiction in the place (who shall grant such Writ of Assistance upon application made to him for that purpose by the Collector or principal officer of the Customs, at the port or place, or by Her Majesty's Attorney-General for Canada),—any officer of the Customs, or any person employed for that purpose with the concurrence of the Governor in Council, expressed either by special order or appointment or by general regulation, taking with him a peace officer, may enter at any time in the day or night into any building or other place within the jurisdiction of the Court granting such Writ, and may search for and seize and secure any goods liable to forfeiture under this Act, and in case of necessity, may break open any doors and any chests or other packages, for that purpose;—And such Writ of Assistance, when issued, shall be in force during the whole of the Reign in which the same shall have been granted, and for twelve months from the conclusion of such Reign.

How search shall be made.

Duration of Writ.

93. Any officer of Customs, or person by him authorized thereunto, may search any person on board any vessel or boat within any port in Canada, or in any vessel, boat, vehicle entering Canada by land or inland navigation, or any person who may have landed or got out of such vessel, boat or vehicle, provided the officer or person so searching has reasonable cause to suppose that the person searched may have uncustomed or prohibited goods secreted about his person; and whoever obstructs or offers resistance to such search, or assists in so doing, shall thereby incur a forfeiture of one hundred dollars; and any person who may be on board of or may have landed from or got out of such vessel, boat or vehicle, may be questioned by such officer, whether he has any dutiable goods about his person, and if he denies having any such goods or does not produce such as he may have, and any such goods are found upon him on being searched, the goods shall be forfeited, and he shall forfeit treble the value thereof:—

Power to search the person, for smuggled goods.

Penalty for resisting search.

2. Provided that before any person can be searched as aforesaid, such person may require the officer to take him or her before some Justice of the Peace, or before the Collector or chief officer of the Customs at the place, who shall, if he see no reasonable cause for search, discharge such person, but if otherwise he shall direct such person to be searched, and if a female she shall not be searched by any but a female;

Proviso.

Females.

3. Any officer required to take any person before a Justice of the Peace or chief officer of customs as aforesaid, shall do so with all reasonable dispatch; and if any officer requires any person to be searched without reasonable cause for supposing that he has uncustomed or prohibited goods about his person, such officer shall forfeit and pay any sum not exceeding forty dollars.

Proviso: Searching without reasonable cause.

94. If any goods, vessel or carriage, subject or liable to forfeiture under this Act or any other law relating to the Customs is stopped or taken by any Police Officer or any person duly authorized,—such goods shall be carried to the Custom House next to the place where the goods were stopped or taken, or to the place which has been appointed for that purpose by the Governor in Council, and there delivered to the proper officer appointed to receive the same, within forty-eight hours after the said goods were stopped and taken.

To what place goods, &c., are to be taken.

95. If any such goods are stopped or taken by such Police Officer on suspicion that the same have been feloniously stolen, such Officer shall carry the same to the Police Office to which the offender is taken, there to remain until, and in order to be produced at, the trial of the said offender;—And in such case, the Officer shall give notice in writing to the Collector or principal officer of Her Majesty's Customs, at the port nearest to the place where such goods have been detained, of his having so detained

How smuggled goods stopped on suspicion of being stolen, and taken to the Police office, shall be dealt with.

the said goods with the particulars of the same; And immediately after the trial, all such goods shall be conveyed to and deposited in the Custom House or other place appointed as aforesaid, and proceedings relative to the same shall be had according to Law :

Penalty on any Police Officer neglecting to obey this section.

2. And in case any Police Officer having detained such goods, neglects to convey the same to such warehouse, or to give such notice of having stopped the same as before prescribed, such officer shall forfeit the sum of one hundred dollars; and such penalty shall be recoverable in a summary way before any one or more Justices of the Peace, and in default of payment the party so offending shall be committed to any of Her Majesty's Jails for a period not exceeding thirty days.

Punishment of persons taking away goods, &c., seized.

96. If any person whatever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, carriage or other thing which has been seized or detained on suspicion, as forfeited under this Act, before the same has been declared by competent authority to have been seized without due cause, and without the permission of the officer or person having seized the same, or of some competent authority—such person shall be deemed to have stolen such goods, being the property of Her Majesty, and to be guilty of felony, and shall be liable to punishment accordingly.

Offence to be felony.

Punishment of persons obstructing, assaulting or resisting officers, &c.

97. If any person, under any pretence, either by actual assault, force or violence, or by threats of such assault, force or violence, in any way resists, opposes, molests or obstructs any officer of Customs, or any person acting in his aid or assistance, in the discharge of his or their duty under the authority of this Act, or any other Law in force in Canada relating to Customs, trade or navigation—or wilfully or maliciously shoots at or attempts to destroy or damage any vessel, belonging to Her Majesty, or in the service of the Dominion of Canada, or maims or wounds any officer of the Army, Navy, Marine, or Customs, or any person acting in his aid or assistance, while duly employed for the prevention of smuggling, and in execution of his or their duty—or if any person is found with any goods liable to seizure or forfeiture, under this Act or any other Law relating to Customs, trade or navigation, and carrying offensive arms or weapons, or in any way disguised—or staves, breaks or in any way destroys any such goods, before or after the actual seizure thereof—or scuttles, sinks or cuts adrift any vessel, or destroys or injures any vehicle, before or after the seizure—or wilfully and maliciously destroys or injures by fire or otherwise any Custom-house, or any building whatsoever in which seized, forfeited or bonded goods are deposited or kept—such person being convicted thereof, shall be adjudged guilty of felony, and shall be punishable accordingly.

Firing at H. M.'s. vessels.

Wounding persons in H. M.'s. service ;

Or having goods liable to seizure, and being armed or disguised ;

Or destroying vessels or goods, or any Custom house, &c.

Such offences to be felony.

98. If any officer of the Customs, or any person who, with the concurrence of the Governor in Council, expressed either by special order or appointment or by general regulation, is employed for the prevention of smuggling, makes any collusive seizure, or delivers up, or makes any agreement to deliver up, or not to seize any vessel, boat, carriage, goods or thing liable to forfeiture under this Act, or takes, or accepts a promise of, any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, such officer or other person shall forfeit for every such offence the sum of two thousand dollars, and be rendered incapable of serving Her Majesty in any office whatever;—And every person who gives or offers or promises to give or procure to be given, any bribe, recompense or reward to, or makes any collusive agreement with any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to conceal, or connive at any act whereby the provisions of this Act or any law relating to the Customs, trade or navigation, might be evaded, shall forfeit the sum of two thousand dollars.

Penalty on officers of the Customs, &c., conniving at any evasion of the Revenue Laws.

And on persons bribing or offering to bribe them to connive.

PROCEDURE FOR ENFORCING PENALTIES.

99. All penalties and forfeitures, incurred under this Act, or any other law relating to the Customs or to trade or navigation, may be prosecuted, sued for and recovered in the Superior Courts of Law, or Court of Vice Admiralty having jurisdiction in that Province in Canada where the cause of prosecution arises, or wherein the Defendant is served with process;—And if the amount or value of any such penalty or forfeiture does not exceed two hundred dollars, the same may in the Provinces of Ontario, Quebec and New Brunswick respectively, also be prosecuted, sued for and recovered in any County Court or Circuit Court having jurisdiction in the place where the cause of prosecution arises or where the defendant is served with process.

In what Courts penalties and forfeitures shall be recoverable.

If the amount be under \$200.

100. All penalties and forfeitures imposed by this Act or by any other Act relating to the Customs or to trade or navigation, shall, unless other provision be made for the recovery thereof, be sued for, prosecuted and recovered with costs by Her Majesty's Attorney-General for Canada, or in the name or names of some officer or officers of the Customs, or other person or persons thereunto authorized by the Governor in Council, either expressly or by general regulation or order, and by no other party; and if the prosecution be brought before any County Court or Circuit Court, or before any Justices of the Peace, it shall be heard and determined in a summary manner upon information filed in such Court.

In whose name prosecutions may be brought.

101. *This section relates only to the Province of Quebec.*

102. If the prosecution to recover any penalty or forfeiture imposed by this Act, or by any other law relating to the Customs, trade or navigation, might be evaded, shall forfeit the sum of two thousand dollars.

How penalties and forfeitures

shall be recoverable in Ontario, N. B. or N. S.

toms or to Trade or Navigation, is brought in any Superior Court of Law in either of the Provinces of Ontario, Nova Scotia or New Brunswick, it shall be heard and determined as prosecutions for penalties and forfeitures are heard and determined in Her Majesty's Court of Exchequer in England, in so far as may be consistent with the established course and practice of the Court in which the proceeding is instituted, and with any law relating to the procedure in such Province, in suits instituted on behalf of the Crown in matters relating to the Revenue; and any such practice and law shall apply to prosecutions for the recovery of forfeitures and penalties under this Act, in whatever Court they are instituted, so far as they can be applied thereto consistently with this Act, and the venue in any such case may be laid in any County in the Province in which the proceeding is had, without alleging that the offence was there committed.

Proceedings before Justices of the Peace in certain cases.

103. Provided that if notice of intent to claim has been given and the value of the goods or thing seized do not exceed one hundred dollars, and the prosecutor chooses to proceed under this section, he shall forthwith cause the goods to be valued by a competent appraiser, who shall certify them to be under the said value, and an information in writing may be exhibited in the name of the collector at or nearest to the place of seizure before two justices of the peace, charging the articles seized as forfeited under some particular Act and section thereof to be therein referred to, and praying condemnation thereof; and the justices shall thereupon issue a general notice for all persons claiming interest in the seizure to appear at a certain time and place there to claim the articles seized and answer the information, otherwise such articles will be condemned; and a copy of the notice shall at least eight days before the time of appearance be served upon the person from whose possession the things were taken, or shall be left at or affixed to the building or vessel in which they were seized, if there remaining, or at two public places nearest the place of seizure: If any person appears to answer the information, the justices shall hear and determine the matter and acquit or condemn the articles, but if no person appears, judgment of condemnation shall be given; and the justices on condemnation shall issue a warrant to the collector to sell the goods;—

Notice to parties.

Hearing if the case is defended, &c.

Court.

2. Such two Justices shall be deemed a Court, and each of them to be a Judge thereof for the purposes of this Act.

Defendant appearing may be required to give security for the penalty

104. Upon the exhibiting or filing of any information or other proceeding for the recovery of any penalty or forfeiture under the provisions of this Act, any Judge of the Court in which the prosecution is brought, may, upon affidavit filed by the officer or person bringing such prosecution, showing that there is reason to believe that the defendant will leave the Province without satisfying such penalty or forfeiture,—issue a

warrant under his hand and seal for the arrest and detention of the defendant in the Common Jail of the County, District or place, until he has given security (before and to the satisfaction of such Judge or some other Judge of the same Court) for the payment of such penalty with costs, in case he be convicted or judgment be given against him; and costs, or imprisoned until he does so.

2. In any such information or proceeding it shall be sufficient to state the penalty or forfeiture incurred, and the Act or section under which it is alleged to have been incurred, without further particulars; Sufficient averment in information, &c.

3. In every such information or proceeding, the averment that the person seizing was and is an officer of the Customs shall be sufficient evidence of the fact alleged, unless it be contradicted by some superior officer of the Customs; That any person was an officer of Customs.

4. And in every information, suit or proceeding brought under this Act for any penalty or forfeiture, or upon any bond given under it, or in any matter relating to the Customs, Her Majesty, or those who sue for such penalty or forfeiture, or upon such bond, shall, if they recover the same, be entitled also to recover full costs of suit;—And all such penalties and costs, if not paid, may be levied on the goods and chattels, lands and tenements of the Defendant, in the same manner as sums recovered by judgment of the Court in which the prosecution is brought may be levied by execution, or payment thereof may be enforced by *capias ad satisfaciendum* against the person of the defendant under the same conditions and in like manner; if in any case the Attorney-General, or whoever acts in his name, is satisfied that the penalty or forfeiture was incurred without intended fraud, he may enter a *nolle prosequi* on such terms as he may see fit, and which shall be binding on all parties, reporting the same to the Minister of Customs with his reasons. Those who recover any penalty or forfeiture, to have full costs of suit. How penalties and costs may be levied. *Nolle prosequi* on terms.

105. In any prosecution or other proceeding, for an offence against this Act or any other law relating to the Customs, or to trade and navigation, the averment that such offence was committed within the limits of any district, county, port or place shall be sufficient without proof of such limits, unless the contrary is proved. Averment as to the doing of any thing within the limits of any port.

106. If any goods are seized for non-payment of duties or any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act or any other law relating to the Customs, and any question arises whether the duties have been paid on such goods, or the same have been lawfully imported, or lawfully laden or exported, or whether any other thing hath been done by which such forfeiture would be prevented or such penalty avoided, the burden of proof shall lie on the owner or claimant of the goods, and not on the officer Proof that goods have paid duty to lie on the owner.

who has seized and stopped the same, or the party bringing such prosecution.

Notices to be posted in the Custom House and in the office of the Clerk of the Court.

107. So soon as an information has been exhibited in any Court for the condemnation of any vessel, goods or thing so seized; notice thereof shall be put up in the office of the Clerk or Prothonotary of the Court, and also in the office of the Collector at the port at which the vessel, goods or thing has been seized as aforesaid: and if it be a vessel shall also be nailed on a mast thereof, or posted on some other conspicuous place on board;

When the case shall be heard if claim be made, and security given.

2. If the owner or person having charge of the vessel, goods or thing, exhibits a claim to the same or to any part thereof, and gives security, and complies with all the requirements of this Act in that behalf, then the said Court at its sitting next after the said notice has been so posted during one month, may proceed to hear and determine any claim which has been validly made and filed in the meantime, and to the release or condemnation of such vessel, goods or thing as the case requires—otherwise the same shall, after the expiration of such month, be deemed to be condemned as aforesaid, and may be sold without any formal condemnation thereof;

Claims not to be admitted unless made within a certain time; Nor without notice.

3. No claim on the behalf of any party who has given notice of his intention to claim before the posting of such notice as aforesaid, shall be admitted, unless validly made within one week after the posting thereof; nor shall any claim be admitted, unless notice thereof has been given to the Collector within one month from the seizure as aforesaid.

How claims must be entered, in order to be valid.

108. No claim to anything seized under this Act, and returned into any of Her Majesty's Courts for adjudication, shall be admitted as valid, unless such claim is entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing is made by the owner, or by his agent knowing the fact, by whom such claim is entered, to the best of his knowledge and belief, nor unless the claimant do, at the time of entering such claim, appear and plead.

Claim not to be valid unless security be given to pay the costs and any penalty incurred.

109. No person so admitted to claim, as aforesaid, shall enter a claim to, or shall be deemed to have validly claimed any vessel, goods or thing seized in pursuance of this Act, or of any law relating to the Customs or to trade or navigation, until sufficient security has been given to the satisfaction of the Court where such seizure is prosecuted, in a penalty not exceeding two hundred dollars, to answer and pay the costs occasioned by such claim, and any penalty incurred by the claimant in respect of such vessel, goods or thing;—And in default of giving such security, such vessel, goods or thing, shall be dealt with as if no claim had been made, and after the lapse of the period in that behalf provided shall be deemed to be condemned.

110. All vessels, vehicles, goods and other things seized as forfeited under this Act or any other Act relating to Customs, or to trade or navigation, shall be placed in the custody of the nearest Collector, and secured by him, or if seized by any officer in charge of a revenue vessel, shall be retained on board thereof, until her arrival in port, and shall be deemed and taken to be condemned, without suit, information or proceedings of any kind, and may be sold and the proceeds of the sale may be dealt with accordingly, unless the person from whom they were seized, or the owner thereof do, or some person on his behalf, within one month from the day of seizure, give notice in writing to the seizing officer or other chief officer of Customs at the nearest port, that he claims or intends to claim the same; and the burden of proof that such notice was duly given in any case shall always lie upon such owner;

Things seized to be deemed condemned, if not claimed within a certain time.

Notice of claim required.

2. But any Collector of Customs may, as may also any Judge having competent jurisdiction to try and determine the seizure, with the consent of the Collector at the place where the seized articles are secured, order the delivery thereof to the owner, on the deposit with him in money of a sum at least equal to the full value (to be determined by the Collector) of the goods seized and the estimated costs of the prosecutor in the case, or on receiving security by bond with two sufficient sureties, to be first approved by such Collector, to pay double the value and costs in case of condemnation,—which bond shall be taken to Her Majesty's use in the Collector's name, and shall be delivered to and kept by such Collector;—And in case such seized articles are condemned, the value thereof and costs shall be forthwith paid to the Collector and the bond cancelled, otherwise the money deposited shall be forfeited, or the penalty of such bond shall be enforced and recovered, as the case may be.

They may be delivered to the owner on due security being given.

Conditions of the bond.

Enforcing bond.

111. In case of the seizure of any horse or other cattle or animal, or of any perishable article, the Collector of the port at which the same has been secured as aforesaid, may sell the same within such delay as to prevent its becoming deteriorated in value, or a part of the value consumed by reason of the expense of keeping or the decay of the same, as if it had been condemned—and may keep in his hands the proceeds of such sale until the same has been condemned, or deemed to be condemned, or ordered to be restored to any claimant, in which last mentioned case, the Court before which the claim is heard shall order the Collector to pay over to the claimant the proceeds of such sale, in lieu of awarding restitution;

Cattle and perishable articles seized may be sold as if condemned.

Proceeds restored, if the seizure be declared null.

2. Nevertheless, the Collector or principal officer of Customs shall deliver up to any claimant, any horse, or other cattle, or animal, or perishable article seized as aforesaid, upon such claimant depositing in the hands of the Collector or principal officer such sum of money as will represent the full value thereof, or giving security to the satisfaction of such Collector

Such cattle or article may be delivered to the owner on security being given.

or principal officer, that the value of such seizure and all costs shall be paid to the use of Her Majesty, if such article be condemned.

Sales to be by public auction.

112. All sales of goods forfeited or otherwise liable to be sold by any Officer of the Customs under this Act, shall be by public auction, and after a reasonable public notice, and subject to such further regulations as may be made by the Governor in Council:—but in any case the Minister of Customs may order vessels, goods or things forfeited to be disposed of as he may see fit instead of being sold by public auction.

Appropriation of penalty and forfeitures.

113. The forfeiture and penalty, after deducting the expenses of prosecution, shall unless it be otherwise provided, belong to Her Majesty for the public uses of the Dominion;

Distribution of the proceeds of penalties and forfeitures.

2. But the net proceeds of such penalty or forfeiture, or any portion thereof, may be divided between and paid to the Collector or chief officer of the Customs at the port or place where the seizure was made or the information given on which the prosecution was founded, and any person having given information or otherwise aiding in effecting the condemnation of the goods, vessel or thing seized or the recovery of the penalty, in such proportions as the Governor in Council may in any case or class of cases direct and appoint; But nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council with regard to the remission of penalties or forfeitures by this Act or any other law.

Power to remit penalty.

Limitation of time for bringing suits for penalties, &c.

114. All actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act, or any other Law relating to the Customs, may be commenced or prosecuted at any time within three years after the offence committed by reason whereof such penalty or forfeiture was incurred, but not afterwards, and the goods or thing forfeited shall be liable to seizure during the same period.

Appeals from convictions before Justices of the Peace.

115. An appeal shall lie from the conviction by any Justices of the Peace under this Act, in the manner provided by law from convictions in cases of summary conviction, in that Province in which the conviction was had, on the appellant furnishing security by bond or recognizance with two sureties to the satisfaction of such convicting Justices, to abide the event of such appeal;

And from County and Circuit Courts.

2. And an appeal shall also lie from the County Courts and Circuit Court, and from decisions or judgments of the Superior Courts of Law respectively, in cases where the amount of the penalty or forfeiture is such that if a judgment for a like amount were given in any civil case, an appeal would lie, and such appeal shall be allowed and prosecuted on like conditions, and subject to like provisions as other appeals from the same Court, in matters of like amount;

3. But if the appeal be brought by Her Majesty's Attorney-General, or a Collector or officer of the Customs, it shall not be necessary for him to give any security on such appeal.

The Attorney-General or Collector &c., appealing need not give security. Restoration of goods, &c., not to be prevented by appeal, provided security be given.

116. In any case in which proceedings have been instituted in any Court against any vessel, goods or thing, for the recovery of any penalty or forfeiture under this Act or any law relating to the Customs, trade or navigation, the execution of any decision or judgment for restoring the vessel, goods or thing to the claimant thereof, pronounced by the Court in which the proceedings have been had, shall not be suspended by reason of any appeal prayed and allowed from such decision or judgment, —provided the party appellant gives sufficient security, to be approved of by the Court, to render and deliver the vessel, goods or thing concerning which such decision or judgment is pronounced, or the full value thereof, (to be ascertained, either by agreement between the parties, or in case the said parties cannot agree, then by appraisement under the authority of the said Court) to the appellant, in case the decision or judgment so appealed from be reversed and such vessel, goods or thing be ultimately condemned.

117. If any information or suit is brought to trial, or determined, on account of any seizure made under this Act or any Law relating to the Customs, and a verdict is found, or decision or judgment given for the claimant thereof, and the Judge or Court before whom the cause has been tried or brought, certifies on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment or other suit or prosecution on account of such seizure;— And if any action, indictment, or other suit or prosecution is brought to trial against any person on account of his making or being concerned in the making of such seizure, wherein a verdict or judgment is given against the defendant, the plaintiff, if probable cause is certified as aforesaid on the record, shall not, besides the thing seized or the value thereof, be entitled to more than twenty cents damages nor to any costs of suit, nor shall the defendant in such prosecution in such case be fined more than ten cents.

On the trial of the validity of any seizure, no costs shall be recovered by plaintiff, if probable cause of seizure be certified.

Damages limited in actions arising out of seizure if probable cause for such seizure existed.

118. If any goods, ship, or boat, be seized as forfeited, or detained as undervalued, the Minister of Customs may order the same to be restored on such terms as he may direct; and if the owner accept the terms he shall have no action on account of the seizure or detention, nor shall any proceedings be had for condemnation and the terms may be enforced by or on behalf of the Crown.

Minister of Customs may order restitution on terms, which may be enforced.

119. No writ shall be sued out against, nor a copy of any process served upon any officer of the Customs or person em-

What notice of action for

PROTECTION OF OFFICERS.

things done
under this Act
shall be given.

ployed for the prevention of smuggling as aforesaid, for any thing done in the exercise of his office, until one month after notice in writing has been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent;— And no evidence of any cause of such action shall be produced except of such as is contained in such notice—and no verdict or judgment shall be given for the plaintiff, unless he proves on the trial, that such notice was given;—and in default of such proof, the defendant shall receive a verdict or judgment and costs.

What evi-
dence only may
be adduced on
the trial.

Costs.

Officer may
tender amends
and plead such
tender in bar.

120. Any such officer or person against whom an action is brought on account of any such seizure, or of any thing done in the exercise of his office, may, within one month after such notice, tender amends to the party complaining or his agent, and plead such tender in bar to the action, together with other pleas; and if the Court or jury (as the case may be) find the amends sufficient they shall give a judgment or verdict for the defendant; and in such case, or in case the plaintiff becomes non-suited, or discontinues his action, or judgment is given for the defendant upon demurrer or otherwise, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only; But the defendant, by leave of the Court in which the action is brought, may, at any time before issue joined, pay money into Court as in other actions.

Costs to de-
fendant, if suc-
cessful.

Money may be
paid into Court.

Action to be
brought within
a certain time
and at a certain
place.

Costs.

121. Every such action must be brought within three months after the cause thereof, and laid and tried in the place or district where the facts were committed; and the defendant may plead the general issue, and give the special matter in evidence; And if the plaintiff becomes non-suited or discontinues the action, or if upon a demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover costs, and have such remedy for the same as any defendant has in other cases where costs are given by Law

If probable
cause be certi-
fied upon the
record, the
plaintiff's costs
and damages
limited.

122. If in any such action, the Court or Judge before whom the action is tried certifies upon the record that the defendant in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than twenty cents damages nor to any costs of suit, nor shall the person who made the seizure be liable to any civil or criminal suit or proceeding on account thereof.

ORDERS OF THE GOVERNOR IN COUNCIL.

Governor in
Council may

123. In addition to the purposes and matters hereinbefore or hereinafter mentioned, the Governor in Council may from

time to time, and in the manner hereinafter provided, make Regulations for or relating to the following purposes and matters : make regula-
tions ;

1. For the warehousing and bonding of such cattle and swine as may be slaughtered and cured, and of such wheat, maize and other grain as may be ground and packed, in bond, and of such sugar as may be refined in bond ; Slaughtering
cattle or grind-
ing grain in
bond ;
2. For the branding and marking of all duty-paid goods, and goods entered for exportation, and for regulating and declaring what allowances shall be made for tare on the gross weight of goods ; Branding and
marking goods,
tare ;
3. For declaring what shall be coasting trade, or inland navigation, respectively, and how the same shall be regulated in any case or class or classes of cases, and for relaxing or dispensing with any of the requirements of this Act, as to vessels engaged in such trade, on any conditions which he may see fit to impose ; Coasting
trade ; and in-
land naviga-
tion.
4. For appointing places and ports of entry, and warehousing and bonding ports, and respecting goods and vessels passing the Canals, and respecting the horses, vehicles and personal baggage of travellers, coming into Canada or returning thereto, or passing through any portion thereof ; Ports of Entry,
&c.

Passing canals,
&c.
5. For exempting from duty any flour or meal or other produce of any wheat or grain grown in and taken out of Canada into the United States to be ground, and brought back into Canada within two days after such wheat or grain has been so taken out to be ground,—or any boards, planks, or scantling the produce of any logs or timber grown in and taken out of Canada into the United States to be sawn, and brought back into Canada within seven days after such logs or timber were so taken out to be sawn ; Exempting
produce of
grain or logs
grown in the
Province &c.,
for duty in cer-
tain cases ;
6. For regulating the quantity to be so taken out or brought in at any one time by any party, and the mode in which the claim to exemption shall be established and proved ; Quantity, so
exempted.
7. For authorizing the appointment of warehouses, and regulating the security which shall be taken from warehouse-keepers, the forms and conditions subject to which goods are to be warehoused, the mode of keeping goods in warehouse, the allowance for natural waste or deficiency, and the amount of warehouse rent ; Warehousing ;
and Ware.
8. For extending upon application, and if he sees fit, and either by general regulation or by special order, the time for clearing warehoused goods, and for the transport of goods in bond from one port or place to another ; Extending
time for clear-
ing warehouse
goods.

Transfers of goods in bond; 9. For regulating the form in which transfers of goods in warehouse or bond from one party to another shall be entered ;

Exemptions from duty of goods from B. N. A. Provinces. 10. For exempting goods from duty as being the growth, produce or manufacture of Prince Edward's Island or Newfoundland, if such exemption be provided for by any Act relating to Customs, and for regulating the mode of proving such exemption ;

Distribution of penalties. 11. For appointing the manner in which the proceeds of penalties and forfeitures shall be distributed ;

Taking of bonds ; 12. For authorizing the taking of such bonds and security as he deems advisable for the performance of any condition on which any remission or part remission of duty, indulgence or permission is granted to any party, or of any other condition made with such party, in any matter relating to the Customs or to trade or navigation ;—And such bonds, and all bonds taken with the sanction of the Minister of Customs, expressed either by General Regulation or by Special Order, shall be valid in law, and upon breach of any of the conditions thereof, may be sued and proceeded upon in like manner as any other bond entered into under this Act or any other law relating to the Customs ;

Recital of case. 13. And whereas it frequently happens that goods are conveyed directly through the Canadian Canals, or otherwise by land or inland navigation, from one part of the frontier line between the Dominion of Canada and the United States to another, without any intention of unlading such goods in Canada, and that travellers in like manner, pass through a portion of Canada or come into it with their carriages, horses or other cattle drawing the same, and personal baggage, with the intention of forthwith returning to the United States, or having gone to the United States from Canada, return to it with such articles,—and, though the bringing of such goods and other articles into Canada is strictly an importation thereof, it may nevertheless be inexpedient that duties should be levied thereon ;

Governor in Council may make regulations as to the passing of goods through the Canadian Canals, &c. With regard to all such cases as aforesaid, the Governor in Council may, from time to time and as occasion may require, make such Regulations as to him seem meet, and may direct under what circumstances such duty shall be or shall not be paid, and on what conditions it shall be remitted or returned, and may cause such bonds or other security to be given, or such precautions to be taken at the expense of the importer (whether by placing Officers of the Customs on board any such vessel or carriage or otherwise) as to him seem meet ; and on the refusal of the importer to comply with the Regulations to be so made, the duty on the goods so imported shall forthwith become payable ;—And all and every horse and carriage,

Forfeiture for contravention.

vehicle or goods of any kind, brought into Canada by any traveller exempted from duty under such Regulations or otherwise, shall, if sold or offered for sale in Canada, provided the duties thereon have not been previously paid, be held to have been illegally imported, and shall be forfeited, together with the harness or tackle employed therewith or in the conveyance thereof ;

14. For any other purpose for which by this Act or any other law relating to the Customs or to trade and navigation, the Governor in Council is empowered to make Orders or Regulations ;—it being hereby declared competent for him (if he deems it expedient) to make General Regulations in any matter in which he may make a Special Order, and any such General Regulation shall apply to each particular case within the extent and meaning thereof, as fully and effectually as if the same referred directly to each particular case within the intent and meaning thereof, and the officers, functionaries and parties had been especially named therein.

Other purposes.

General regulations to have the effect of special orders in cases to which they apply.

124. The Governor in Council may, by Proclamation or Order in Council, at any time, and from time to time, prohibit the exportation or the carrying coastwise or by inland navigation, of the following goods :—Arms, ammunition and gunpowder, military and naval stores, and any articles which the Governor in Council shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions or any sort of victual which may be used as food by man ; and if any goods so prohibited be exported, carried coastwise, or by inland navigation, or waterborne or laden in any railway carriage or other vehicle, for the purpose of being so exported or carried, they shall be forfeited.

Governor in Council may prohibit the exportation, etc., of certain goods.

125. In any Regulation made by the Governor in Council, under this Act, any oath, affirmation or declaration may be prescribed and required which the Governor in Council deems necessary to protect the Revenue against fraud ; and any person or officer may be authorized to administer the same, and by any such regulation, a declaration may be substituted for an oath or affirmation in any case where an oath or affirmation is required by this Act.

Regulations by Governor in Council may require oath, &c.

Or substitute declarations for oaths, &c.

126. All goods shipped or unshipped, imported or exported, carried or conveyed, contrary to any Regulation so made by the Governor in Council, and all goods or vehicles and all vessels under the value of four hundred dollars, with regard to which the requirements of any such Regulation have not been complied with, shall be forfeited, and if such vessel be of or over the value of four hundred dollars, the master thereof shall, by such non-compliance, incur a penalty of four hundred dollars ; And any such forfeitures and penalties shall be recoverable and may be enforced in the same manner, before the same Court

Penalties and forfeitures for contravention of such Regulations

How recoverable.

and tribunal as if incurred by the contravention of any direct provision of this Act.

127. All General Regulations made by the Governor in Council under this Act shall have effect from and after the day on which the same have been published in the *Canada Gazette*, or from and after such later day as may be appointed for the purpose in such Regulations, and during such time as shall be therein expressed, or if no time be expressed for that purpose, then until the same are revoked or altered;—and all such regulations may be revoked, varied or altered by any subsequent regulation;—And a copy of the *Canada Gazette* containing any such Regulation shall be evidence of such Regulation to all intents and purposes whatsoever.

128. Any copy of an Order of the Governor in Council made in any special matter and not being a General Regulation, certified as a true copy of such Order by the Clerk of the Queen's Privy Council for Canada or his Deputy, shall be evidence of such Order to all intents and purposes whatsoever.

MISCELLANEOUS PROVISIONS.

129. In every case where the person required to take any oath under any Act or Regulation relating to the Customs, is one of the persons entitled by law to take a solemn affirmation instead of an oath in civil cases, such person may instead of the oath hereby required make a solemn affirmation to the same effect; and every person before whom any oath is by any such Act or Regulation, required or allowed to be taken, or solemn affirmation to be made, shall have full power to administer the same; and the wilfully making any false statement in any such oath, shall be perjury, and the wilfully making any false statement in any such solemn affirmation shall be a misdemeanour punishable as perjury.

130. Whenever on the levying of any duty or for any other purpose, it becomes necessary to determine the precise time of the importation or exportation of any goods, or of the arrival or departure of any vessel,—such importation, if made by sea, coastwise, or by inland navigation in any decked vessel, shall be deemed to have been completed from the time the vessel in which such goods were imported, came within the limits of the port at which they ought to be reported, and if made by land, or by inland navigation in any undecked vessel, then from the time such goods were brought within the limits of Canada:—

And the exportation of any goods shall be deemed to have been commenced from the time of the legal shipment of such goods for exportation, after due entry outwards, in any decked vessel, or from the time the goods were carried beyond the limits of Canada, if the exportation be by land or in any undecked vessel;—And the time of the arrival of any vessel shall be

deemed to be the time at which the report of such vessel was, is or ought to have been made, and the time of the departure of any vessel to be the time of the last clearance of such vessel on the voyage for which she departed.

131. Although any duty of Customs has been overpaid, or although after any duty of Customs has been charged and paid, it appears or is judicially established that the same was charged under an erroneous construction of the law, no such overcharge shall be returned after the expiration of three years from the date of such payment.

Duties overpaid not returnable after three years, though wrongly paid.

132. All bonds and securities, of what kind and nature soever, authorized to be taken by any Law relating to Customs, Trade or Navigation, shall be taken by the collector or principal officer of the Customs at the place where the same are to be taken, and to and for the use and benefit of Her Majesty;— And such bonds shall be taken before the delivery of any goods, vessel, carriage or vehicle, horses or other cattle, of any kind or description whatsoever, and before the performance of any act or matter with regard to which the taking of any such bond or bonds is required.

By whom bonds shall be taken to Her Majesty's use.

To be given prior to the delivery, &c., of the goods.

133. *This section was repealed by 31 V. c. 44, sec. 13, and the following substituted*

“ All bonds, documents and papers necessary for the transaction of any business at the respective Custom Houses or places or ports of entry in Canada, shall be in such form as the Minister of Customs shall from time to time direct.”

New section.

134. Certificates and copies of official papers, certified under the hand and seal of any of the principal officers of the Customs, in the United Kingdom, or of any Collector of colonial revenue in any of the British possessions in America or West Indies, or other the British possessions, or of any British Consul or Vice-Consul in a foreign country, and certificates and copies of official papers made pursuant to this Act or any Act in force in Canada, relating to the Customs or Revenue, shall be received as presumptive evidence in reference to any matter contained in this Act, or any Act relating to the Customs, or on the trial of any suit in reference to any such matter.

Certain documents to be presumptive evidence.

135. Whenever any person makes any application to an officer of the Customs to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf the application is made, and in default of the production of such authority, may refuse to transact such business;—And any act or thing done or performed by such agent, shall be binding upon the person by or on behalf of whom the same is done or performed, to all intents and purposes, as fully as if the act or thing had been done or performed by the principal.

Persons applying to transact business on behalf of another, to produce written authority.

Any thing done by such agent to be binding.

Such agent may execute any bond or agreement, thereby binding his principal.

Instrument appointing such agent shall be valid in form in schedule.

Any partner may execute any bond, &c., without mentioning the names of the other members, &c.

Seals.

Proviso : form of signature.

Acts &c., repealed, Con. Stat. Can. c. 17. Caps. 12, 13, 14, 15, 16 of Rev. Stat. of Nova Scotia.

Caps. 27, 28, 29 of Rev. Stat. New Brunswick and any other enactment inconsistent with this Act, &c.

136. Any Attorney and Agent duly thereunto authorized by a written instrument, which he shall deliver to and leave with the Collector, may in his said quality validly make any Entry or execute any Bond or other Instrument required by this Act, and shall thereby bind his principal as effectually as if such principal had himself made such Entry or executed such Bond or other Instrument, and may take the oath hereby required of a Consignee or Agent, if he be cognizant of the facts therein averred :—And any Instrument appointing such Attorney and Agent shall be valid if in the form in the Schedule hereunto annexed, or in any form of words to the like effect.

137. Any partner in any unincorporated company, association or co-partnership of persons, or their Attorney and Agent authorized as aforesaid, may, under the name and style usually taken by such company, association or co-partnership, make any Entry or execute any Bond or other Instrument required by this Act, without mentioning the name or names of any of the Members or of the other Members of the company or association or partnership, and such Entry, Bond or Instrument shall nevertheless bind them as fully and effectually, and shall have the same effect in all respects as if the name of every such Member or Partner had been therein mentioned and he had signed the same, and (if it be a Bond or other Instrument under Seal) as if he had thereunto affixed his Seal and had delivered the same as his act and deed ; and the Seal thereunto affixed shall be held to be the Seal of each and every such Member or Partner as aforesaid ; And the provisions of this Section shall apply to any Instrument by which any company, association or partnership of persons appoint an Attorney or Agent to act for them under the next preceding section ; Provided always, that the person who under this section makes any Entry or executes any Bond or Instrument on behalf of any company, association or partnership, shall, under the name and style usually taken by them, write his own name with the word “by” or the words “by their Attorney” (*as the case may be*), thereunto prefixed.

138. Subject to the provisions hereinafter made, the seventeenth chapter of the Consolidated Statutes of the late Province of Canada, and the Acts of the Legislature of the said Province amending the said chapter—and the twelfth, thirteenth, fourteenth, fifteenth and sixteenth chapters of the Revised Statutes of the Province of Nova Scotia (third series) and the Acts of the Legislature of that Province amending the said chapters or any of them, and the twenty-seventh, twenty-eighth and twenty-ninth chapters of the Revised Statutes of the Province of New Brunswick, and the Acts of the Legislature of the said Province amending the said chapters or any of them, and every enactment or provision in any other Act or law in force before the coming into force of this Act, inconsistent with this Act or making any provision for any matter provided for by this Act other than such as is hereby made, are hereby repealed, except

in so far as the said Acts or enactments or any of them repeal any former Act or enactment, (which shall remain repealed) and except in so far as relates to any duty accrued, and bond given, any right acquired, or any penalty, forfeiture or liability incurred under the said Acts or enactments or any of them, or any offence committed against them or any of them, before the coming into force of this Act, nor shall this repeal extend to any duty of customs imposed or any exemption or prohibition contained in any such Act, which shall, after the coming into force of this Act be levied, allowed and enforced under the provisions thereof, unless and until it be otherwise provided by Act of the Parliament of Canada.

Effect or repeal limited.

THINGS DONE UNDER REPEALED ACTS.

139. All Regulations and Orders made by the Governor of the late Province of Canada in Council, or by the Lieutenant-Governor of either of the Provinces of Nova Scotia or New Brunswick, in Council, before this Act comes into force, under the authority of any Act relating to the Customs, shall remain in force in these Provinces respectively and shall apply to the duties to be collected and things to be done under this Act, in so far as they are not inconsistent with it, unless or until revoked or altered by the Governor in Council, notwithstanding the repeal of any such Act as aforesaid.

Certain Regulations to remain in force.

140. Neither the repeal of any former Act or enactment relating to the Customs, nor any thing in this Act contained, shall render necessary any new appointment of the several officers employed in the collection or management of, or in any matter relating to the Customs, but such officers shall continue to act in their respective capacities under the provisions of this Act, and of the law, until removed, or permitted to resign, by competent authority,—nor shall any such repeal or any thing in this Act affect the amount of the salary or allowances attached to any office connected with the management or collection of the Duties of Customs;—and all bonds given by any such officers and their respective sureties for good conduct or otherwise, before this Act comes into force, shall remain in full force and effect; and the officers heretofore employed in the collection of Customs duties in New Brunswick, under the name of Treasurers or Deputy Treasurers, shall be called and be Collectors of Customs within the meaning of this Act and of any other Act of the Parliament of Canada relating to the Customs, without any new appointment or any other authority than this Act.

No new appointment of the officers, &c., to be necessary.

Salaries.

Bonds.

Treasurers and Deputies in N. B.

141. All goods warehoused before this Act comes into force, and which remain so warehoused shall, if taken out of the warehouse for consumption in Canada, be subject to the duties to which such goods would be subject if they were then imported into Canada, and not to any other; and all appointments of

Goods warehoused.

Appointment of warehouses for the warehousing of goods made under the authority of any Act in force in the late Province of Canada, or in Nova Scotia or New Brunswick before this Act came into force, shall continue valid as if made under the authority of this Act; and all bonds given in respect of any goods warehoused or entered to be warehoused before the said time, shall continue in force for the purposes of this Act.

SCHEDULE.—FORMS.

DECLARATION OF THE OWNER, CONSIGNEE OR IMPORTER, WITH THE BILL OF ENTRY.

I, the undersigned, , hereby solemnly declare that the within Bill of Entry contains a true account of the goods, imported in the whereof is Master, (or by the (Railway,) or as the case may be) from , and whereof I (or as the case may be)—am (or is or are) the owner (Importer or consignee) that the Invoice herewith produced is the true and only invoice (I, or as the case may be) have (or has) received or expect or expects to receive of the said goods, and that the prices of the goods, as mentioned in the invoice, exhibit the actual cost (or the fair market value) of the said goods at the time and place of exportation, and that no discounts for cash are made in the said invoice prices.

Signed at , on the day of , 18 .
in the presence of *

* To be signed in the presence of the Collector or of the Attorney or Agent making the entry, or of a Justice of the Peace or a Consul.

OATH OR AFFIRMATION OF AN OWNER, CONSIGNEE OR IMPORTER OR HIS AGENT.

Dominion of Canada.

Port of

I, , do solemnly and truly swear (or affirm) that I (or as the case may be) am (or that the firm of of which I am a partner, is the owner (consignee or importer) of the goods mentioned in the Invoice now produced by me and hereunto annexed and signed by me, and that such invoice is the true and only Invoice received by me (or us) or which I (or we) expect to receive of all the goods, imported in the , whereof is Master, from , for account of me (or as the case may be); that nothing has been on my part, nor to my knowledge on the part of any other

person done, concealed or suppressed, whereby *Her* Majesty the *Queen* may be defrauded of any part of the duty lawfully due on the said goods; and I do further solemnly and truly swear (*or affirm*) that the Invoice now produced by me exhibits to my personal knowledge the actual cost (*or fair market value*) of the said goods, at the time when the same were thence exported to Canada, in the markets in without any deduction or discount for cash or otherwise howsoever: So help me God.

Sworn (*or affirmed*) before me, this day of , 18 .

Collector.

(*or as the case may be.*)

OATH OR AFFIRMATION OF AN AGENT OF THE OWNER,
CONSIGNEE OR IMPORTER.

Dominion of Canada,
Port of

I, , do solemnly and truly swear (*or affirm*) that I am the authorized agent of (*as the case may be*) and that I have the means of knowing and do know that the Invoice now presented by me to the Collector of Customs for the Port of , is the true and only Invoice by him (*or them*) received of all the goods, imported in the , whereof is Master, from , for his (*or their*) account; that nothing has been on my part, nor to my knowledge, on the part of any other person, done, concealed or suppressed, whereby *Her* Majesty the *Queen* may be defrauded of any part of the duty lawfully due on the said goods; and I do further solemnly and truly swear (*or affirm*) that, to the best of my knowledge and belief, the said is (*or are*) the owner (*or owners*) of the goods, mentioned in the said Bill of Entry hereunto annexed, as therein respectively stated, and that the Invoice now produced by me exhibits the actual cost (*or fair market value*) of the said goods at the time when the same were thence exported to Canada, in the markets in of the said goods, without any deduction or discount for cash or otherwise howsoever: So help me God.

Sworn (*or affirmed*) before me, this day of , 18 .

Collector.

(*or as the case may be.*)

OATH OR AFFIRMATION OF AN OWNER, CONSIGNEE, IMPORTER
OR AGENT, ON ENTERING MERCHANDIZE, WITHOUT INVOICE.

Dominion of Canada,
Port of

I, _____, do solemnly and truly swear (*or affirm*) that the Bill of Entry now delivered by me to the Collector of Customs for the Port of _____, contains a just and true Account of all the goods, imported for me or on my account, or on account of _____ for whom I am authorized to enter the same, in the _____ whereof _____ is Master, from _____; that the Bill of Lading now produced by me is the true, genuine, and only Bill of Lading by me received of the said goods; and that I have not received, and do not know of any Invoice, or other account whatever having been received of the said goods; I do further swear (*or affirm*) that if I hereafter discover any other or greater quantity of goods, than is contained in the entry aforesaid, or receive or obtain a knowledge of any Invoice of the whole or any part thereof, I will immediately report the same to the Collector of this Port; I also swear (*or affirm*) that nothing has been concealed or suppressed in the entry aforesaid whereby to avoid the just payment of the duties imposed by the laws of the Dominion of Canada; and that all matters are justly and truly expressed therein to the best of my knowledge and belief: So-help me God.

Sworn (*or affirmed*) before me, this _____ day of _____, 18 ____.

Collector.
(*or as the case may be.*)

The wording of any of these oaths or affirmations may be changed to suit the circumstances of the case, and the provisions of the law; and the Oath or Affirmation will be sufficient, provided the requisite facts are distinctly stated and sworn to or affirmed.

All the foregoing forms in this Schedule may be altered, or new forms substituted under Section 39.

APPOINTMENT OF AN ATTORNEY OR AGENT.

Dominion of Canada.

Know all men by these presents, that I *or we* (*A. B. & Co.*) have appointed and do hereby appoint *C. D.* of

(*residence, profession, &c.*) to be my (*or our*) true and lawful Attorney and Agent, for me (*or us*) and in my (*or our*) name to transact all business which I (*or we*) may have with the Collector at the Port of _____, or relating to the Department of the Customs at the said Port, and to execute, sign, seal and deliver for me (*or us*) and in my (*or our*) name all Bonds, Entries and other Instruments in writing relating to any such Business as aforesaid, hereby ratifying and confirming all that my (*or our*) said Attorney and Agent shall do in the behalf aforesaid.

In witness whereof, I (*or we*) have signed these presents, and sealed and delivered the same as my (*or our*) act and deed, at _____, in the said Dominion, this _____ day of _____, one thousand eight hundred and _____
A. B. & Co. [L. S.]

By
one of the partners in the said firm.
(*or as the case may be.*)

In presence of E. F.
and G. H.

OATH OF THE MASTER OF A VESSEL REPORTED INWARDS.

I, _____ master of the ship or vessel called the _____ of _____ tons measurement or thereabouts, last cleared from the port of _____, do solemnly swear that, since the said vessel was so cleared, I have not broken bulk, nor has any part of her cargo been discharged or landed, or moved from the said vessel; and I do further swear that the manifest now exhibited by me and hereto annexed doth, to the best of my knowledge and belief, contain a full, true and correct account of all the goods, wares and merchandize laden on board such vessel at the said port of _____, or at any other port or place during her present voyage. So help me God.

Sworn to at _____ this _____ day of _____
186 _____, before me,
Collector. }

Master.

31 VICT. CAP. 7.

An Act imposing Duties of Customs, with the Tariff of Duties payable under it.

[Assented to 21st December 1867.]

HER Majesty, by and with the advice and consent of the Preamble,
Senate and House of Commons of Canada, enacts as follows:

1. *This Section which related to duties of Customs was repealed by 31 V. c. 44, sec. 1, post, page 312.*

2. *This Section which related to free goods was repealed by 31 V. c. 44 sec. 1, post, page 312.*

3. *This Section which related to other goods which might be declared free was repealed by 31 V. c. 44, sec. 1, post, page 312.*

4. *This Section which related to certain articles from the United States was repealed by 31 V. c. 44, sec. 1, post, page 312.*

How goods claimed to be exempt from duty must be described for entry.

Forfeiture for misdescription, &c.

5. Goods claimed to be exempt from duty under this Act shall, in the entry thereof, be described and set forth in the words by which they are described to be free in Schedule C or D, to this Act, and goods not answering such description shall be seized and forfeited, or if the Collector, under the circumstances, deems it expedient, he may detain the goods and report the case for the action of the Minister of Customs who may direct their seizure or release as he may deem expedient; and where goods in any case whatever are seized or detained as forfeited for any breach of the Customs Laws, it shall be lawful for the Minister of Customs to order the release of the same, on the payment of such penalty as he may impose, provided the owner of the goods give in writing his assent thereto.

By 31 V. c. 44, sec. 14 post, page 314, this Section is directed to be construed as applying to Schedule C. to 31 V. c. 44.

Regulations by Governor in Council for preventing fraud.

6. The importation of goods exempt from duty under this Act and all matters relating thereto, shall be subject to such regulations as the Governor in Council may make for the purpose of preventing fraud or abuse under pretext of such exemption, nor shall such exemption prevent the forfeiture of such goods for any breach of the Customs Laws, or of any regulations lawfully made under them.

7. *This Section which related to Prohibited Goods was repealed by 31 V. c. 44, sec. 1, post, page 312.*

Importation of arms, &c.

8. Fire-arms and munitions of war, shall not be imported except from the United Kingdom of Great Britain and Ireland, unless upon application to, and permission given by, the Minister of Customs.

9. *This Section which related to Packages was repealed by 31 V. c. 44, sec. 1, post, page 312.*

Value of packages when only to be deducted from invoice value of goods

10. No deduction from the value of goods contained in any invoice shall be allowed on account of the assumed value of a package or packages, when no charge for such package or packages has been made in such invoice; and where such charge is made, it shall be the duty of the Customs' Officer to see that the charge is fair and reasonable and represents no more than the original cost thereof.

11. No deduction from the value of goods in any invoice shall be made on account of charges for packing, or for straw, twine, cord, paper, cording, corking, wiring, cutting, or for any expense incurred or said to have been incurred in the preparation and packing of goods for shipment.

No deduction allowed for packing, &c.

12. *This Section which declared that no deduction should be allowed for Commission was repealed by 31 V. c. 44, sec. 1, post, page 312.*

13. No discount for cash shall in any case be allowed, nor shall goods be allowed to entry at cash values, except where it is satisfactorily shewn to the Collector that such goods can be purchased only for cash, and then it shall form a part of the affidavit of the importer that the value of such goods was paid at the time of purchase.

No discount for cash, except only in certain cases.

14. Fish, salted or fresh, or other articles alleged to be the product of Canada, or of Newfoundland or Prince Edward Island, imported from the United States, shall be liable to the duty of Customs imposed on goods of the class to which they respectively belong, unless accompanied by a copy of outward report stating quantity, and describing the packages, duly certified by a Collector of Her Majesty's Customs.

As to fish, &c., alleged to be the product of Canada, or B. N. A. Provinces, &c.

15. *This Section which related to the certificate of growth of wine was repealed by 31 V. c. 44 sec. 1, post, page 312.*

16. Drawback, under regulations to be prescribed by the Governor in Council, shall be allowed on goods of the value at the least of one hundred dollars, on the first entry on which duties of Customs have been paid, when exported direct to Newfoundland, or to Prince Edward's Island.

Draw-back on duty-paid goods exported to Newfoundland or P. E. Island.

17. No refund of duty shall be allowed after the lapse of fourteen days from the time of entry, for any alleged misdescription of goods by the importer; and should any error of the kind be discovered by the importer while unpacking his goods, he shall immediately and without further interference with the goods, report the facts to the Collector in order that the same may be verified.

No refund of duties except in certain cases only.

18*. The foregoing provisions of this Act shall be construed as one Act with the Act of this session, intituled: *An Act respecting the Customs*, in so far as consistent with this Act; and all words and expressions used in this Act, shall have the meaning assigned to them in the said Act, and all the provisions of the said Act, or of the regulations made or to be made under it, or continued in force by it, shall apply to the duties imposed by this Act, except in so far as they may be inconsistent with it.

How this Act shall be construed.

* See note at the foot of page 253.

Inconsistent
enactments
repeal.

19. So much of any Act of the Legislature of the late Province of Canada, or of either of the Provinces of Nova Scotia or New Brunswick, as imposes any duty of Customs, or makes any provision in any matter provided for by this Act, or is inconsistent with this Act, is hereby repealed.

Commence-
ment of this
Act.

20. The duties of Customs hereby imposed shall be held to have come into force on the Thirteenth day of December, in the year of Our Lord one thousand eight hundred and sixty-seven, and to have been and to be payable on goods imported or taken out of warehouse for consumption upon or after the said day, in lieu and instead of the duties of Customs theretofore imposed or payable; and the export duty on timber exported from the Province of Ontario or of Quebec, shall be held to have been repealed from the said day.

Export duty on
timber repeal-
ed.

The Schedules A, B, C, D, and E, annexed to above Act were repealed by 31 V. c. 44 sec. 1, post, page 312.

31 VICT. CAP. 56.

An Act to impose a duty on Foreign Reprints of British Copyright Works.

[Assented to 22nd May, 1868.]

Preamble.

Imp. Act. 10,
11 V. c. 95.

WHEREAS by an Act of the Parliament of the United Kingdom, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled: *An Act to amend the Law relating to the protection in the Colonies of Works entitled to Copyright in the United Kingdom*, it is provided, that in case the Legislature of any British Possession shall be disposed to make due provision for securing or protecting the rights of British Authors in such Possession, and shall pass an Act for that purpose, and transmit the same, in the proper manner, to the Secretary of State, in order that it may be submitted to Her Majesty, and in case her Majesty should be of opinion that such Act is sufficient for the purpose of securing to British Authors reasonable protection within such Possession, it shall be lawful for Her Majesty to express Her Royal Approval of such Act, and thereupon, by order in Council, to suspend, so long as the provisions of such Act shall continue in force in such Colony, the provision contained in the Imperial Acts in the said above recited Act mentioned, or in any other Acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing, foreign reprints of books first composed, written, printed or published in the United Kingdom, and entitled to Copyright therein, and it is expedient to pass such Act as aforesaid, to the end that foreign reprints of such works may, under the provisions of the said

Imperial Act, be lawfully imported into Canada, on conditions common to the whole Dominion, and to remove doubts as to the intent of the Act passed in the present session of the Parliament of Canada, intituled: *An Act imposing duties of Customs, with the tariff of duties payable under it*: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Act of Canada, 31 V. c. 7.

1. It shall be lawful for the Governor in Council to impose upon books imported into Canada, and being copies printed or reprinted in any other country than the United Kingdom, of books first composed or written, or printed or published in the United Kingdom of which the Copyright shall be still subsisting, and with regard to which the notice to the Commissioners of Customs required by any Act of the Parliament of the United Kingdom in that behalf, shall have been given, an *ad valorem* duty not exceeding twenty per cent., and, from time to time, to alter the said duty (not exceeding in any case the rate aforesaid), and, from time to time, to establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force, as he may deem requisite and equitable, with regard to the admission of such books, and to the distribution of the proceeds of such duty to or among the party or parties beneficially interested in the Copyright, and such duty shall be collected in like manner as duties of Customs, and under the provisions of the Acts relating to such duties.

Governor in Council may impose a duty on such Reprints of British Copyright Works for the benefit of the authors.

2. The word 'book' in this Act shall include every volume, part or division of a volume, pamphlet, sheet of letter press, sheet of music, rap, chart, or plan separately published.

Interpretation.

3. The foregoing provisions of this Act (except in so far as it may be otherwise directed in any such order as aforesaid, of Her Majesty in Council,) shall come into operation upon, from and after the day to be appointed for that purpose, in any Proclamation of the Governor, signifying Her Majesty's Royal Approval of this Act, and the issuing of such order of Her Majesty in Council and not before.

When to come into force.

4. And it is hereby declared, that it was not the intent of the Act of the Parliament of Canada cited in the Preamble to this Act, that any duty imposed on foreign reprints of such British Copyright Books as are mentioned in the foregoing sections of this Act, by any Act of the late Province of Canada, or by any order of the Governor of that Province in Council made, or to be made under such Act, or by any Act of the Legislature of the Province of Nova Scotia or of New Brunswick, for the purpose of being distributed to or among the party or parties beneficially interested in the Copyright, should be repealed, and any such duty shall continue to be collected for the purposes aforesaid, until a duty shall be imposed for like purposes under this Act, after which it shall cease.

Former duty to remain until a duty is imposed under this Act.

31 VICT. CAP. 44.

An Act to amend the Act of the present Session, intituled: *An Act imposing duties of Customs, with the Tariff of duties payable under it.*

[Assented to 22nd May, 1868.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Repeal of existing Tariff, &c.
31 V. c. 7.

1. The first, second, third, fourth, seventh, ninth, twelfth and fifteenth sections of the Act passed in the present session, chapter seven, and intituled: *An Act imposing duties of Customs, with the Tariff of Duties payable under it*, and the Schedules A, B, C, D, and E, annexed to the said Act, are hereby repealed.

New Tariff substituted, as in schedules A and B.

2. In lieu and instead of the duties of Customs, imposed by the Act hereinbefore cited, there shall be raised, levied, collected and paid, upon the goods enumerated in Schedules A and B to this Act, imported into Canada or taken out of Warehouse for consumption therein, the several duties of Customs respectively set forth and described in the said Schedules A and B, the duty of fifteen per centum *ad valorem* being payable upon all goods not charged with any other duty, and not declared free of duty.

Free goods.

3. The goods enumerated in the Schedules C and D to this Act, may, subject to the provisions and conditions therein mentioned, be imported into Canada, or taken out of Warehouse for consumption therein, without payment of any duty of Customs thereon.

Value of sugar for duty how ascertained.

4. The value for duty on which the *ad valorem* duties hereby imposed on sugar, molasses, melado, syrup of sugar or sugar cane, syrup of molasses or of sorghum, concentrated melado or concentrated molasses, and sugar candy, shall be calculated and taken, shall include the value of the packages containing the same, and the shipping and other charges on such articles, and the value for duty shall be the value of the goods "free on board," at the place or port whence last exported direct to Canada;—and the Governor in Council shall have power to declare what charges shall be included in such value so defined; and the Governor in Council shall have power to interpret, limit or extend the meaning of the conditions upon which it is provided in Schedule C, that any article may be imported free of duty for special purposes or for particular objects or interests; and to make regulations either for declaring or defining what cases shall come within the conditions of the said schedule, and to what objects or interests of an analogous nature the same shall apply and extend, and to direct the payment or non-pay-

Powers of Governor in Council.

His powers as regards schedule C, Free Goods.

ment of duty in any such case, or the remission thereof by way of drawback, if such duty has been paid.

So much of this Section as is inconsistent with 33 V. c. 9, sec. 10 is repealed. See that Section, post page 329.

5. Any other articles than those mentioned in Schedule D, being of the growth and produce of any of the British North American Provinces, may be specially exempted from Customs duty by order of the Governor in Council.

Goods from
B. N. A. Pro-
vinces.

6. *This Section which related to admitting goods from the United States free in case of reciprocity, was repealed by 33 V. c. 9, s. 14, post page 339.*

Goods from
U. S. in case
of reciprocity.

7. The goods enumerated in Schedule E shall not be imported into Canada, under the penalty therein mentioned, and if imported shall be forfeited and forthwith destroyed.

Prohibited
goods.

8. *This section was repealed by 33 V. c. 9, s. 10, post page 329 and the following substituted :*

The value for duty of goods on which an *ad valorem* duty of Customs is imposed, imported into Canada by sea, shall be the actual value of such goods at the last place at which they are purchased ; and the value of such goods for duty, if imported from the United States by land or inland navigation, shall be the actual value of such goods at the last place at which they are purchased for importation into Canada, and whence they are directly conveyed, without change of package, to Canada ; and whatever be the country from which the goods are imported, or in which they are purchased, such value shall be ascertained by adding to the value of such goods at the place of growth, production or manufacture, the cost of transportation, whether by land or water, and of shipment and transshipment, with all expenses included, from the place of growth, production or manufacture, to the place where the goods are purchased, and if they are purchased in the United States, then to the place whence they are directly conveyed to Canada, as aforesaid,—and such value shall include also the value of any box, case, sack, package, or covering of any kind in which such goods are contained, and all export duties on such goods, and all costs and charges incurred prior to their purchase.

New Section.
Value for
duty ; how
to be deter-
mined.

9. The foregoing sections of this Act shall be held to have come into force, and the duties mentioned therein and in the Schedules to this Act, shall be held to have been imposed and to have been substituted for those imposed by the Act hereby amended, on the twenty-ninth day of April, in the present year of our Lord one thousand eight hundred and sixty-eight, and to have been and to be payable on all goods imported or taken out of Warehouse for consumption upon or after the said day.

New duties—
from what
time to be in
force.

10. The Governor in Council may, under Regulations to be made for that purpose, allow, on the exportation of goods which have been imported into Canada, and on which a duty of Customs has been paid, a drawback equal to the duty so paid ;—and in cases to be mentioned in such Regulations and subject to

Drawback on
duty paid
goods ex-
ported.

Regulations to be made. such provisions as may be therein made, such drawback may be allowed on duty paid goods, manufactured or wrought in Canada, into goods exported therefrom as aforesaid; and the period within which such drawback may be allowed after the time when the duty was paid shall be limited in such Regulations.

Export duties on Lumber. **11.** Upon, from and after the first day of October, in the present year of our Lord one thousand eight hundred and sixty-eight, there shall be raised, levied, collected and paid, upon the goods enumerated in Schedule F to this Act, the export duties mentioned in the said Schedule, and such duty shall be paid to the proper Officer of Customs, at the intended port of exportation; the export of such goods without payment of the said duty shall be unlawful, and the Collector or any Officer of Customs shall prevent the exportation of such goods until such duties thereon are paid; and if any attempt be made to export such goods contrary to the provisions of this Act, they shall be liable to seizure and be forfeited, and shall be dealt with as other goods forfeited for breach of the Customs laws.

Penalty for attempting to export without paying duty.

Act 29, 30 V. c. 6 of Canada amended, as respects Free Ports. **12.** So much of section nine of the Act of the Legislature of the late Province of Canada, passed in the Session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, and intituled: *An Act to amend the Acts respecting duties of Customs, and the Tariff of duties payable under them*, as requires the payment of any duty of Customs on the importation of goods from any of the Free Ports abolished under the said section, into any other part of Canada, or imposes any restrictions upon such importation, is hereby repealed.

Sect. 133 of 31 V. c. 6, repealed and new section substituted. **13.** The one hundred and thirty-third section of the Act of the present session, intituled: *An Act respecting the Customs*, is hereby repealed, and the following section substituted for it:

133. "All bonds, documents and papers necessary for the transaction of any business at the respective Custom Houses or places or ports of entry in Canada shall be in such form as the Minister of Customs shall from time to time direct."

How this Act shall be construed.

14. This Act shall be construed as one Act with the said Act of the present Session, intituled: *An Act respecting the Customs*, and with the Act hereinbefore cited and amended, the fifth section whereof shall be construed as referring to schedule C annexed to this Act; and all words and expressions used in this Act shall have the meaning assigned to them in the said Acts, and all provisions of the said Acts and of the Regulations made or to be made under them or either of them, or continued in force by them or either of them, shall apply to the duties imposed by this Act, except in so far as they may be inconsistent with it.

See ante note at foot of page 253, and for sec. 5 of 31 V. c. 7, see ante page 308.

SCHEDULE A.

GOODS PAYING SPECIFIC DUTIES.

		Duties.	
		\$	cts.
<i>Animals, viz:—</i>	<i>By 33 V. c. 9, sec. 1, the specific duties on animals here mentioned were repealed, and an ad valorem duty of ten per cent charged on animals except such as are imported for the improvement of stock (see page 326 post.) See also 33 V. c. 9, s. 14, post page 330.</i>		
<i>Horses.....</i>			
<i>Horned Cattle.....</i>			
<i>Swine.....</i>			
<i>Sheep.....</i>			
Acid—Sulphuric		Per lb.	0 0½
Butter.....		"	0 04
<i>Cigars:—By 33 V. c. 9 sec. 2, the specific duty on cigars here imposed was altered, but the alteration made by 33 V. c. 9. was changed by 37 V. c. 6, sec. 2, (see page 336 post.)</i>			
Cheese.....		Per lb.	0 03
<i>Coffee, green, roasted or ground. The duty on coffee was taken off by 35 V. cc. 11 and 12, (see post page 334), but was again imposed by 37 V. c. 6, sec. 2, and 35 V. c. 10, repealed as to admitting tea and coffee free. (See post page 335.)</i>			
Chicory or other root or vegetable used as coffee, raw or green.....		"	0 03
Chicory, kiln-dried, roasted or ground.....		"	0 04
Fish, salted or smoked.....		"	0 01
Lard and Tallow.....		"	0 01
Meats, fresh, salted or smoked.....		"	0 01
Malt.....		Per Bushel	0 40
<i>Oils:—viz.</i>			
Coal and Kerosene, distilled, purified and refined.....		Per Gallon	0 15
Naptha, Benzole and refined Petroleum.....		"	0 15
Products of Petroleum, coal, shale and lignite, not otherwise specified.....		"	0 10
Crude Petroleum.....		"	0 06
Soap Common.....		Per lb.	0 01
Starch.....		"	0 02
<i>Spirits and strong waters. By 33 V. c. 9, sec. 2, the duties on spirits and strong waters were altered, but the alteration made by 33 V. c. 9, was in turn changed by 37 V. c. 6, sec. 2, (see page 336 post.)</i>			

SUGAR AND MOLASSES.

Sugar:—All sugar equal to, or above No. 9, Dutch Standard, twenty-five per centum *ad valorem* and a specific duty of one cent per lb.
 Below No. 9 Dutch Standard, twenty-five per centum *ad valorem* and a specific duty of three-fourths of one cent per lb.
 Cane Juice, Syrup of Sugar or of Sugar Cane, Syrup of Molasses or of Sorghum, Melado, concentrated Melado, or concentrated Molasses, twenty-five per centum *ad valorem* and a specific duty of five-eighths of one cent per lb.

Sugar Candy, brown or white, and confectionery, twenty-five per centum *ad valorem*, and a specific duty of one cent per lb.

Molasses, if used for refining purposes, or for the manufacture of sugar. Per 100 lbs. 0 73

Molasses, if not so used, twenty-five per centum *ad valorem*.

See 33 V. c. 9 sec. 19, post page 332, for provisions as to manufacturing molasses into spirits in bond.

SCHEDULE B.

GOODS PAYING TWENTY-FIVE PER CENTUM AD VALOREM.

Cassia, ground,

Cinnamon, “

Ginger, “

Mace,

Nutmegs,

Pepper, ground,

Perfumery, not otherwise specified,

Perfumed and fancy soaps,

Pimento, ground,

Playing cards,

Proprietary Medicines, commonly called Patent Medicines, or any medicine or preparation of which the recipe is kept secret, or the ingredients whereof are kept secret, recommended by advertisement, bill or label for the relief or cure of any disorder or ailment.

GOODS PAYING TEN PER CENTUM AD VALOREM.

Sole and Upper Leather.

By 33 V. c. 9, sec. 4, the following articles were added to goods paying ten per cent ad valorem: Animals of all kinds except such as shall be imported for the improvement of stock, which shall be admitted free of duty under regulations to be made by the Treasury Board and approved by the Governor in Council: Green Fruits of all kinds, Hay, Straw, Bran, Seeds not classed as Cereals, Vegetables, including Potatoes and other Roots, Plants, Trees and Shrubs.

GOODS PAYING FIVE PER CENTUM AD VALOREM.

Books, periodicals and pamphlets, printed,—not being foreign reprints of British Copyright Works, nor blank account books, nor copy books, nor books to be written or drawn upon, nor reprints of books printed in Canada, nor printed sheet music.

See last Act 31 V. c. 56 (page 310) as to foreign reprints.

Iron—viz :—Bar, Rod, Hoop and Sheet.

Canada plates and tinned plates.

Nail and Spike Rod, round, square and flat.

Rolled plate and Boiler plate.

Wire.

By 33 V. c. 9, sec. 5, "Iron Wire" was struck out of this Schedule and declared to be free of duty, but by 37 V. c. 6, s. 6, post page 338, a duty of five per cent ad valorem was imposed upon iron wire whether galvanized or not, except for wire rigging

Type.

GOODS PAYING AD VALOREM AND SPECIFIC DUTIES.

Ale, Beer and Porter, ten per centum *ad valorem* and a specific duty of five cents per Gallon in Casks, and seven cents per Gallon in bottles. (5 quart and 10 pint bottles to be held to contain a gallon.)

Tea. Black,
Do. Green, { *The duty on tea was taken off by 35 V. c. 10, but*
including { *was again imposed by 37 V. c. 6, sec. 2; and 35 V.*
Japan. } *c. 10, was repealed as to admitting tea and coffee*
free. (See post page 336.)

Tobacco.
Wines of all kinds. { *By 33 V. c. 9, sec. 6, so much of this Schedule as*
imposed any duty on Tobacco or on Wines was
repealed, and fresh duties imposed, but these were
altered in turn by 37 V. c. 6, sec. 3. See post
page 337.

The following
packages { *By 37 V. c. 6, s. 4, post page 337, so much of this Schedule*
as imposed any duty upon non-enumerated goods and
packages was repealed and the following provisions sub-
stituted:

The following packages, viz. :—Bottles, Jars, Demi-johns and Carboys, whatever be their contents, and Brandy casks, barrels or other packages in which spirituous liquors, wines and malt liquors are contained, and barrels or other packages in which petroleum oils or the products thereof are contained : and all goods not enumerated in this or any other Act as charged with any duty of Customs, and not declared free of duty by this Act or some other Act or provision unrepealed by this Act, shall be charged with a duty of Customs of seventeen and one-half *per centum ad valorem*, when imported into Canada, or taken out of warehouse for consumption therein :

But all packages not hereinbefore specified, and not specially charged with duty under section 4 of the Act thirty-first Victoria, chapter forty-four, or any other unrepealed enactment, and being the ordinary or usual packages in which goods are packed for exportation according to the general custom and usage of trade, shall be free of duty.

SCHEDULE C.

FREE GOODS.

See 33 V. c. 9, secs. 7, 8, and 9, post page 328, also 37 V. c. 6, sec. 7, post page 339.

ARTS AND SCIENCE :—

Anatomical preparations,

Botany, Specimens of,

Cabinets of Antiquities,

“ Coins,

“ Gems,

“ Medals,

Drawings, not in oil,

Gems,

Medals,

Mineralogy, Specimens of,

Models,

Natural History, Specimens of,
Sculpture, Specimens of.

WORKS OF ART, viz :

Busts—Natural size, not being casts nor produced by any mere mechanical process.

Casts—as models for the use of schools of design.

Paintings—in oil, by artists of well-known merit, or copies of the old masters by such artists.

Statues—Of bronze, marble or alabaster, natural size.

DRUGS, DYE STUFFS, OILS AND COLORS NOT ELSEWHERE SPECIFIED, VIZ :—

Acids of every description, except acetic and sulphuric acid and vinegar.

Alum,

Antimony,

Argol,

Bark, when chiefly used in dyeing,

Barilla,

Berries, when chiefly used in dyeing,

Borax,

Bleaching powders,

Brimstone in roll or flour.

Colours and other articles, when imported by room-paper makers and stainers, to be used in their trade only, viz :

These words were struck out of this Schedule by 33 V. c. 9, sec. 7, post page 328.

Bichromate of potash,

Blue Black,

British gum,

Chinese Blue,

Lakes, scarlet and morone, in pulp,

Paris and permanent Greens,

Satin and fine washed White,

Sugar of lead,

Ultra Marine,

Umber, raw,

Cream of tartar, in crystals,

Drugs, when chiefly used in dyeing,

Indigo,

Kelp,

Kryolite,

Metallic Oxides, dry ground or unground, washed or unwashed, not calcined,

Nitre,

Nuts, when chiefly used in dyeing,

Ochres, dry, ground or unground, washed or unwashed, not calcined,

Oils, cocoa nut, pine and palm in their natural state,

Phosphorus,

Red Lead, dry,

Roots, Medicinal, in their natural state,

Sal ammoniac,

Sal soda,

Saltpetre,

Soda ash,

Soda caustic,
 Soda, nitrate of,
 Soda, silicate of,
 Sulphur, in roll or flour,
 Vitriol, blue,
 Vegetables, when chiefly used for dyeing,
 White lead, dry,
 Whiting or whitening,

Woods, when chiefly used in dyeing,

These words were struck out of this Schedule by 37 V. c. 6, sec. 7, and the following substituted :

“ Woods unmanufactured when chiefly used in dyeing,”

Zinc, white, dry.

MANUFACTURES AND PRODUCTS OF MANUFACTURES :

Anchors,
 Ashes, pot, pearl and soda,
 Bread and biscuit from Great Britain and the B. N. A. Provinces,
 Bolting, cloth,
 Book binders' tools and implements,
 Brim moulds for gold beaters,
 Burrstones,
 Candle wick, cotton,
 Cement, Marine unground,
 Cement, Hydraulic do.
 Church Bells,
 Clothing—donations of, for charitable institutions,
 Communion Plate,
 Cocoa Paste, from Great Britain and the B. N. A. Provinces,
 Coin and Bullion, except United States silver coin,
Cotton Netting for India Rubber Shoes, (Charged with ten per cent ad valorem by 37 V. c. 6, sec. 5.)
 Cotton Waste,
 Cotton Wool,
 Drain tiles,
 Duck for belting and hose,
Emery paper and emery cloth, (Charged by 33 V. c. 9, sec. 8 with fifteen per cent ad valorem and placed among non-enumerated goods.)
 Electrotype Blocks, for printing purposes,
 Farming implements and utensils when imported by Agricultural Societies for the encouragement of Agriculture,
Felt for Hats and Boots, (Charged with ten per cent ad valorem by 37 V. c. 6, sec. 5.)
 Fire Brick.
Fire Engines—Steam—when imported by the Municipal Corporations of Cities, Towns and Villages, for the use of such Municipalities (Charged by 33 V. c. 9, sec. 8 with fifteen per cent ad valorem and placed among non-enumerated goods.)
 Fish hooks, nets and seines, lines and twines,
 Flax Waste,
Glass paper and Glass cloth, (Charged with ten per centum ad valorem by 37 V. c. 6, sec. 5.)

Gold Beaters' Skin.

Gold Leaf (Charged by 33 V. c. 9 sec. 8 with fifteen per cent ad valorem and placed among non-enumerated goods.)

Hoop skirt manufacture, the following articles for, Crinoline thread for covering Crinoline wire, clasps of tin and brass, slides, spangles and slotted tapes, and flat or round wire uncovered,

Junk,

Linen Machine Thread, (Charged with ten per cent ad valorem by 37 V. c. 6, sec. 5.)

Lithographic Stones,

Lumber, plank and sawed, of mahogany, rosewood, walnut, cherry and chestnut, and pitch pine,

Machine Silk Twist, (Charged with ten per cent ad valorem by 37 V. c. 6, sec. 5.)

Machinery when used in the original construction of Mills or Factories, not to include Steam Engines, Boilers, Water Wheels, or Turbines, (Charged by 33 V. c. 9 sec. 8, with fifteen per cent ad valorem and placed among non-enumerated goods.)

By 37 V. c. 6, sec. 5, Machinery for Mills and Factories of kinds which are not then manufactured in the Dominion is charged with ten per cent ad valorem. See also 37 V. c. 6 s. 10 post page 340.

Nails,—Composition,

Nails,—Sheathing,

Oakum,

Oil Cake,

Philosophical instruments and apparatus, including globes, when imported by, and for the use of Colleges and Schools, Scientific or Literary Societies,

Platers' Leaf, (Charged with fifteen per cent ad valorem by 33 V. c. 9, sec. 8.)

Printing Ink,

Printing Presses, except portable hand printing presses,

Prunella, (Charged with ten per cent ad valorem, by 37 V. c. 6, sec. 5.)

Plush for Hatters' use, (Charged with ten per cent ad valorem by 37 V. c. 6, sec. 5.)

Rags,

Sand paper and sand cloth, (Charged with fifteen per cent ad valorem by 33 V. c. 9, sec. 8.)

Ships' Binnacle Lamps,

“ *Blocks and patent bushes for blocks*,

“ *Bunting*,

“ Cables, iron chain, over one half of an inch, shackled or swivelled, or not,

“ *Compasses*,

“ *Dead Eyes*,

“ *Dead Lights*,

“ *Deck Plugs*,

“ *Knees, Iron*,

“ *Masts or parts of, Iron*,

“ *Pumps and pump-gear*,

“ *Riders, Iron*,

“ *Shackles*,

Ships' Sheaves,
 " Signal Lamps,
 " Steering apparatus,
 " Travelling Trucks,
 " Wedges,
 " Wire-rigging,

And the following articles when used for ships or vessels only, viz :

Cables, hemp and grass,
 Cordage,
 Sail cloth or canvas from No. 1 to No. 6
 Varnish, black and bright.

The ship materials printed in italics were charged with five per cent. ad valorem by 37 V. c. 6, sec. 6.

Silver Leaf, (Charged, by 33 V. c. 9, sec. 8, with fifteen per centum ad valorem, and placed among non-enumerated goods.

Spikes, composition,
 Straw Plaits, Tuscan and Grass, Fancy,
 Stereotype Blocks for printing purposes,
 Treenails,

Twists, silk, for hats, boots and shoes,

By 37 V., c. 6, s. 5, Silk Twists are charged with a duty of ten per cent. ad valorem.

Veneering of wood or ivory,

Weaving or tram silk, for making elastic webbing,

" " cotton " "

Wire cloth, of brass and copper,

Woollen netting for India rubber shoes, (*Charged with ten per cent. ad valorem by 37 V. c. 6, sec. 5.*)

Woolwaste (*Added to this Schedule by 37 V. c. 6, sec. 7.*)

METALS—

Brass,—Bar, Rod, Sheet and Scrap.

Cranks for Steamboats, forged in the rough,

Do Mills, do do

Copper, in Pig, Bars, Rods, Bolts and Sheets, and Sheathing,

Iron of the descriptions following :—

Scrap, Galvanized or Pig,

Puddled, in Bars, Blooms and Billets,

Bolts and Spikes, galvanized,

By 37 V. c. 6, sec. 6, Iron of the following descriptions is charged with five per cent. ad valorem,

Iron of the following descriptions, viz—

Iron, scraps and galvanized,

Bars, puddled,

Blooms and Billets, puddled or not puddled,

Bolts and Spikes, galvanized.

Wire, whether galvanized or not, except for wire rigging.

Locomotive Engine Frames, Axles, Cranks, Hoop Iron or Steel for tires of wheels, bent and welded,

" *Crank Axles, Piston Rods, Guide and Slide Bars, Crank Pins, Connecting Rods,*

By 37 V. c. 6, sec. 5, the above Locomotive Engine materials are charged with a duty of ten per cent. ad valorem.

Lead in Sheet or Pig,

Litharge,

Railroad Bars, and frogs, wrought iron or steel Chairs, wrought iron or steel Fish Plates, and Car Axles,
 Shafts for Mills and Steamboats, in the rough,
 Spelter, in blocks, sheets or pig,
 Steel, wrought or cast in bars and rods,
 “ plates cut to any form, but not moulded,
 Tin, in bar, blocks, pig or granulated,
 Tubes and piping—of brass, copper or iron, drawn,
 Type Metal, in blocks or pigs,
 Wire, of brass or copper, round or flat,
 Yellow Metal, in bolts, bars, and for sheathing,
 Zinc in sheets and blocks and pigs.

By 33 V., c. 9, sec. 7, there were added to this Schedule the following articles :—

Bookbinders' Mill-Boards and Binders' Cloth, Iron Wire and Brass in stripes, and Iron in Blooms and Billets (not puddled); but as to Iron and Iron Wire, see last page.

NATURAL PRODUCTS,

Bristles,
 Broom Corn,
 Bulbs,
 Caoutchouc, unmanufactured,
 Clays,
Coal and Coke (Struck out of this Schedule by 33 V. c. 9, sec. 9, and a specific duty imposed which, however, was repealed by 34 V. c. 10, sec. 2. (Post page 333.) See also 33 V. c. 9, s. 14, post, page 330.
 Cocoa, bean and shell,
 Cork wood,
 Cork wood bark,
 Diamonds, unset,
 Earths,
 Eggs,
 Emery,
Flour, Wheat and Rye (Struck out of this Schedule by 33 V. c. 9, sec. 9, and a specific duty imposed which, however, was repealed by 34 V. c. 10, sec. 2.
 Fibre, Mexican,
 Fibre, vegetable, for manufacturing purposes,
 Fibrilla,
 Flax, undressed,
Flaxseed (Added to this Schedule by 37 V. c. 6, sec. 7),
 Fire Clay,
 Fire Wood,
 Fish, fresh, not to include Oysters or Lobsters in Tins or Kegs,
 Fish bait,
 Furs, undressed,
Grain of all kinds (Struck out of this Schedule by 33 V. c. 9, sec. 9, and a specific duty imposed which, however, was repealed by 34 V. c. 10, sec. 2.
 Gravels,
 Grease and Grease Scrap,

Gum Copal,
 Gutta Percha, unmanufactured,
 Gypsum, not ground nor calcined,
 Hair, Human, Goat, Angola, Thibet, Horse, Hog and Mohair, unmanufactured,

Hay, (Struck out of this Schedule and duty of ten per cent ad valorem imposed by 33 V. c. 9, ss. 4 and 9. post, p. 327 & 329. See also ss. 14 and 15.)

Hemp, undressed,

Hides,

Hops, (Struck out of this Schedule and duty of fifteen per cent ad valorem imposed by 33 V. c. 9, sec. 9 post page 329. See also ss. 14 and 15.)

Horns,

*Indian Corn, } were struck out of this Schedule by 33 V. c. 9, sec. 9 and
 Indian Meal, } a duty imposed which however was repealed by 34 V. c.
 10 sec. 2.*

India Rubber, unmanufactured,

Manilla Grass,

Manures,

Marble in blocks unwrought, or sawn on two sides only, or slabs sawn from such blocks, having at least two edges unwrought,

Moss for Upholstery purposes,

Ores of metals of all kinds,

Osiers,

Pelts,

Pipe clay,

Pitch,

Plants, (Struck out of this Schedule and duty of ten per cent ad valorem imposed by 33 V. c. 9, ss. 4 and 9 post page 327 & 329. See also ss. 14 and 15.)

Plaster of Paris not ground nor calcined,

Precious Stones, unset,

Ratan for chair makers,

Roots, (Struck out of this Schedule and duty of ten per cent ad valorem imposed by 33 V. c. 9, ss. 4 and 9. See also s. 14.)

Rosin,

Salt. This Schedule was amended by 33 V. c. 9, sec. 7, by substituting for "Salt" the words "Salt when imported from the United Kingdom or any British possession or imported for the use of the Sea or Gulf Fisheries" and a specific duty was by sec. 3, of the same Act charged on other Salt. By 34 V. c. 10, sec. 2, so much of 33 V. c. 9, as imposed any duty on salt was repealed.

Sand,

Sea Grass,

Seeds for agricultural, horticultural or manufacturing purposes,

Shrubs,

These two last were struck out of this Schedule and a duty of ten per cent ad valorem was imposed on them by 33 V. c. 9, sec. 9. See also s. 14.

Skins undressed,

Slate,

Stone, unwrought,

Tails, undressed,
 Tanner's Bark,
 Tampico white and black,
 Tar,
 Teasels,
 Tobacco, unmanufactured,
 Tow, undressed,
Trees, (Struck out of this Schedule and a duty of ten per cent ad valorem imposed by 33 V. c. 9, secs. 4 and 9 post pages 327 & 329. See also s. 14.
 Turpentine, other than spirits of,
Vegetables, culinary, (Struck out of this Schedule and duty of ten per cent ad valorem imposed by 33 V. c. 9, secs. 4 and 9.)
 Vegetable fibres,
 Whale Oil, in the casks from on Ship-board and in the condition in which it was first landed,
 Willow for basket-makers,
 Wood of all kinds wholly unmanufactured,
 Wool.

SPECIAL EXEMPTIONS FROM DUTY :—

Apparel, wearing, of British Subjects dying abroad, but domiciled in Canada.
 Articles by and for the use of the Governor General.

“ for the public uses of the Dominion.

“ “ use of Foreign Consuls General.

Army and Navy, for the use of,—

Arms,
 Clothing,
 Musical Instruments for Bands,
 Military Stores.

Settlers' effects of every description, in actual use, not being merchandise, brought by persons making oath that they intend becoming permanent settlers within the Dominion.

UNDER REGULATIONS AND RESTRICTIONS TO BE PRESCRIBED BY THE
 MINISTER OF CUSTOMS.

Carriages of travellers and carriages laden with merchandise and not to include circus troops, nor hawkers.

Locomotives and railway passenger, baggage and freight cars, running upon any line of road crossing the frontier, so long as Canadian locomotives and cars are admitted free under similar circumstances in the United States,

Menageries, horses, cattle, carriages and harnesses of,
 Travellers' baggage.

SCHEDULE D.

(See 33 V. c. 9, s. 15 page 330.)

The following goods, when the growth and produce of any of the British North American Provinces, may be imported free of duty, viz :

Animals of all kinds.
 Fresh, smoked and salted meats.
 Green and dried fruits.
 Fish of all kinds.
 Products of fish and of all other creatures living in water.
 Poultry.
 Butter.
 Cheese.
 Lard.
 Tallow.
 Timber and lumber of all kinds, round, hewed, sawed, but not otherwise manu-
 factured in whole or in part.
 Fish oil.
 Gypsum, ground or unground.

The following articles were added to this Schedule by 33 V. c. 9, sec. 15:
Hay, Straw, Bran, Seeds of all kinds, Vegetables (including Potatoes
and other Roots), Plants Trees and Shrubs, Coal and Coke, Salt, Hops,
Wheat, Peas and Beans, Barley, Rye, Oats, Indian Corn, Buckwheat,
and all other Grain, Flour of Wheat and Flour of Rye, Indian meal and
Oatmeal, and Flour or meal of any other Grain—so that any of the said
articles, when the growth and produce of any of the British North Ameri-
can Provinces, may be imported therefrom free of duty.

SCHEDULE E.

The following articles shall be prohibited to be imported under a penalty
 of two hundred dollars together with the forfeiture of the parcel or package
 of goods in which the same may be found, viz:—

Books, Printed Papers, Drawings, Paintings, Prints and Photographs, of a
 treasonable or seditious, or of an immoral or indecent character.
 Coin, base or counterfeit.

SCHEDULE F.

EXPORT DUTIES.

Shingle Bolts.....	per Cord of 128 Cubic Feet.	\$1 00
Stave Bolts } Oak Logs }	By 38 V. c. 35 the duty on Stave bolts and Oak Logs is repealed.	
Spruce Logs.....	per M.	1 00
Pine Logs.....	"	1 00

33 VICT. CAP. 9.

An Act to amend the Acts respecting Customs and Inland Revenue; and to make certain provisions respecting Vessels navigating the Inland Waters of Canada above Montreal.

[Assented to 12th May, 1870.]

Preamble.

WHEREAS it is expedient to amend the several Acts hereinafter mentioned respecting Customs and Inland Revenue, and to make certain provisions respecting vessels navigating the inland waters of Canada above Montreal: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Duty on
animals
altered
31 V. c. 44.

1. So much of Schedule A, annexed to the Act passed in the thirty-first year of Her Majesty's Reign, and intituled, "An Act to amend the Act of the present Session, intituled: *An Act Imposing Duties of Customs, with the Tariff of Duties payable under it,*" as imposes any specific duty of Customs on Animals, viz.: Horses, Horned Cattle, Swine and Sheep, is hereby repealed, and such animals, when imported into Canada, shall, as hereinafter provided, be charged with a Customs duty of ten per centum *ad valorem*, subject to the exception hereinafter made.

Duties on
Cigars and
Spirits
altered.

2. So much of the said Schedule A, as imposes any specific duty of Customs on Cigars, or on Spirits and Strong Waters, is hereby repealed, and the specific duties imposed on the said articles by the next following section, shall be substituted for those imposed on them by the said Schedule A.

And on
certain other
articles.

3. There shall be raised, levied, collected and paid, on the following articles when imported into Canada, or taken out of warehouse for consumption therein the several duties of Customs set opposite to them respectively, that is to say:—

\$ cts.

Cigars.....		
<i>The duty on Cigars imposed by this Act was altered by</i>		
<i>37 V. c. 6 sec. 2, (see post page 336.)</i>		
Coal and Coke.....		
<i>Salt (except Salt imported from the United Kingdom or any British Possession, or imported for the use of the Sea or Gulf Fisheries, which shall be free of duty.).....</i>		
Hops.....	per lb.	0 5
Vinegar and Acetic Acid.....	per gallon	0 10
Rice	per lb.	0 1
Wheat.....		

Peas and Beans, and Barley, Rye, Oats, Indian Corn, Buckwheat, and all other Grain except Wheat

Flour of Wheat and Flour of Rye.....

Indian Meal and Oatmeal, and Flour or Meal of any other Grain except Wheat and Rye.....

By 34 V. c. 10, sec. 2, so much of this Act as imposed any duty on any of the articles printed in italics (except cigars) in the above list was repealed.

Spirits and strong waters.

The duties on spirits and strong waters imposed by this Act were altered by 37 V. c. 6, sec. 2 (see post page 336).

Fruits preserved in Brandy or other Spirits.

The duties on Fruits preserved as above imposed by this Act were altered by 37 V. c. 6, sec. 2 (see post page 336).

4. Schedule B, annexed to the said Act, is hereby amended by adding the following articles to the list of "GOODS PAYING TEN PER CENTUM AD VALOREM," viz:—

Articles added
to ten per
cent. list.

Animals of all kinds, except such as shall be imported for the improvement of stock, which shall be admitted free of duty, under regulations to be made by the Treasury Board, and approved by the Governor in Council;

Green Fruits of all kinds, Hay, Straw, Bran, Seeds not classed as Cereals, Vegetables including Potatoes and other Roots, Plants, Trees and Shrubs;

All which articles shall be charged with a duty of Customs of ten per per centum, *ad valorem*, when imported into Canada or taken out of warehouse for consumption therein.

5. The said Schedule B is hereby further amended by striking out of the list of "GOODS PAYING FIVE PER CENTUM AD VALOREM," the article "Iron Wire," which shall be free of duty of Customs.

Five per cent.
list amended.

By 37 V. c. 6, sec. 6, "Iron Wire," except for Wire Rigging, is charged with a duty of five per cent *ad valorem*. See post page 339.

Schedule B
amended.
Tobacco and
Wines.

6. So much of the said Schedule B as imposes any duty of Customs on Tobacco, or on Wines, is hereby repealed; and the following articles, when imported into Canada, or taken out of warehouse for consumption therein, shall be respectively charged with the several duties of Customs hereinafter mentioned, that is to say:—

Tobacco and Snuff, twelve and one one-half per centum, *ad valorem*, and twenty-five cents per pound;

Wines of all kinds, including Ginger, Orange, Lemon, Gooseberry, Strawberry, Raspberry, Elder and Currant Wines, a specific duty of thirty cents per gallon (five quart and ten pint bottles to be held to contain a gallon) on all wines containing less than twenty per cent. of alcohol, and not worth more than forty cents per gallon ;

On all other Wines, except sparkling, sixty cents per gallon, when imported in wood ; and if imported in bottle, one dollar and fifty cents per dozen of quart bottles (five whereof contain a gallon), and so in proportion ;

On all Sparkling Wines, three dollars per dozen of quart bottles (five whereof contain a gallon), being at the rate of one dollar and twenty-five cents per gallon, and so in proportion ;

Provided always that no liquor containing more than twenty-five per cent. of alcohol shall be admitted as wine.

By 37 V. c. 6, sec. 3, the duties on Tobacco and Wines imposed by this Act were repealed, and the above duties substituted :

Schedule C
(Free Goods)
amended.

7. Schedule C, annexed to the said Act (being the list of Free goods), is hereby amended by substituting for the word "Salt," under the head "NATURAL PRODUCTS," the words "Salt when imported from the United Kingdom or any British Possession, or imported for the use of the Sea or Gulf Fisheries ;"—and—

By adding, under the heading "MANUFACTURES AND PRODUCTS OF MANUFACTURES," Bookbinders' Mill-Boards and Binder's Cloth, Iron Wire and Brass in stripes, and Iron in blooms and billets (not puddled) ;—and—

By striking out of the said Schedule, under the heading "DRUGS, DYE STUFFS, OILS AND COLORS, NOT ELSEWHERE SPECIFIED," the words "Colours and other articles, when imported by room-paper makers and stainers, to be used in their trade only, viz."

By 34 V. c. 10, sec. 2, so much of this Act as imposed any duty upon Salt was repealed. See page 333 post, and as to duties on Iron see 37 V. c. 5, sec. 6, page 339 post.

Schedule C
further
amended.

8. The said Schedule C is hereby further amended by striking out of the said Schedule, under the heading "MANUFACTURES AND PRODUCTS OF MANUFACTURES," the following articles, viz :—Fire Engines—Steam, when imported by Municipal Corporations of Cities, Towns and Villages, for the use "of such Municipalities ;" and "Machinery when used in the "original construction of Mills or Factories—not to include "Steam Engines, Boilers, Water Wheels or Turbines ;" "Gold "and Silver Leaf ;" "Emery Paper and Emery Cloth ;" Sand "Paper and Sand Cloth ;" "Plater's Leaf ;" all which articles shall be included among unenumerated goods under the said

Act, and when imported into Canada, or taken out of warehouse for consumption therein, shall be charged with a duty of Customs of fifteen per centum *ad valorem* under the said Schedule B.

9. The said Schedule C is hereby further amended by striking out of the said Schedule, under the heading "NATURAL PRODUCTS," the following articles, viz:—*Coal and Coke—Flour, Wheat and Rye—Grain of all kinds—Hay—Hops—Indian Corn—Indian Meal—Plants—Roots—Seeds for Agricultural, Horticultural or Manufacturing purposes—Shrubs—Trees—and Vegetables, culinary—all of which articles will become subject to the duties specially imposed on them by the preceding sections of this Act.* Schedule C further amended.

So much of this section as imposed any duty upon the articles in italics was repealed by 34 V. c. 10, s. 2.

10. Section eight of the said Act (respecting packages), is hereby repealed, and the following section is substituted for it as section eight of the said Act. Section 8 repealed.

"8. The value for duty of goods on which an *ad valorem* duty of Customs is imposed, imported into Canada by sea, shall be the actual value of such goods at the last place at which they are purchased; and the value of such goods for duty, if imported from the United States by land or inland navigation, shall be the actual value of such goods at the last place at which they are purchased for importation into Canada, and whence they are directly conveyed, without change of package, to Canada; and whatever be the country from which the goods are imported, or in which they are purchased, such value shall be ascertained by adding to the value of such goods at the place of growth, production or manufacture, the cost of transportation, whether by land or water, and of shipment and transshipment, with all expenses included, from the place of growth, production or manufacture, to the place where the goods are purchased, and if they are purchased in the United States, then to the place whence they are directly conveyed to Canada as aforesaid—and such value shall include also the value of any box, case, sack, package, or covering of any kind in which such goods are contained, and all export duties on such goods, and all costs and charges incurred prior to their purchase: " And so much (if any) of the fourth section of the said Act, or of the thirtieth or thirty-first sections of the Act passed, in the thirty-first year of Her Majesty's Reign, and intituled, "An Act respecting the Customs," or of either of the said Acts or of any other Act or Law, as may be inconsistent with this section, is hereby repealed; but all provisions of the said sections and Acts, and of the Act passed in the year last aforesaid, intituled, "An Act imposing duties of Customs, with the Tariff of duties payable under it," which are now in force, and not inconsistent with those of this section, shall remain in force and New Section. Value for duty; how to be determined.

Inconsistent enactments, &c., repealed 31 V., c. 6.

31 V., c. 7.

apply to all *ad valorem* duties of Customs on goods imported into Canada, or on the packages in which they are contained, and to the calculation of the value thereof for duty.

11. *This Section which added five per cent to all duties of Customs, by whatever Act imposed, was repealed by 34 V. c. 10, sec. 1, page 333, post.*

When the foregoing Sections shall be held to come into force.

12. The foregoing sections of this Act, and the alterations thereby made in the duties of Customs on any article or goods, shall be held to have come into force, and to have taken effect, on the eighth day of April, in the present year of Our Lord one thousand eight hundred and seventy, and to apply to and determine the duty payable on any article or goods imported into Canada, or taken out of warehouse for consumption therein, on or after the said day.

Drawback on iron in composite ships.

13. A drawback of the duties of Customs paid on Iron and Manufactures of Iron used in the building of Composite Ships and Vessels in Canada, and on Sheet Tin or Tin Plate used in packages for articles exported from Canada, shall be allowed, subject to Regulations to be made by the Treasury Board, and approved by the Governor in Council.

Duty on certain articles from United States may be taken off or diminished in a certain case.

14. Section six of the Act herein first above cited, shall be and is hereby repealed; and any or all of the following articles, that is to say:—Animals of all kinds, Green Fruit, Hay, Straw, Bran, Seeds of all kinds, Vegetables (including Potatoes and other Roots), Plants, Trees and Shrubs, Coal and Coke, Salt, Hops, Wheat, Peas and Beans, Barley, Rye, Oats, Indian Corn, Buckwheat and all other Grain, Flour of wheat and Flour of Rye, Indian Meal and Oat Meal, and Flour or Meal of any other Grain, Butter, Cheese, Fish (salted or smoked), Lard, Tallow, Meats (fresh, salted or smoked),—may be imported into Canada free of duty or at a less rate of duty than is provided by the said Act as amended by this Act, upon proclamation of the Governor in Council, which may be issued whenever it appears to his satisfaction that similar articles from Canada may be imported into the United States of America free of duty, or at a rate of duty not exceeding that payable on the same under such Proclamation, when imported into Canada.

As to articles from B. N. A. Provinces.

15. The articles hereinafter mentioned shall be added to those mentioned in Schedule D to the said Act, which shall be construed as including them, that is to say:—Hay, Straw, Bran, Seeds of all kinds, Vegetables (including Potatoes and other Roots), Plants, Trees and Shrubs, Coal and Coke, Salt, Hops, Wheat, Peas and Beans, Barley, Rye, Oats, Indian Corn, Buckwheat, and all other Grain, Flour of Wheat and Flour of Rye, Indian meal and Oatmeal, and Flour or meal of any other Grain,—so that any of the said articles, when the growth and produce of any of the British North American Provinces, may

be imported therefrom free of duty: Provided that the Governor in Council may, by proclamation, at any time, declare, that on and after a day to be therein named, all the articles in Schedule D (including those previously mentioned) shall be charged with the same duties when imported from any of British North American Provinces, as when imported from any other country.

*16. The foregoing Sections of this Act shall be construed as forming one Act with the Acts hereinbefore cited and amended; and all words and expressions used in this Act shall have the meaning assigned to them in the said Acts, and all provisions of the said Acts, and of the Regulations made or to be made under them or either of them, or continued in force by them or either of them, shall apply to the duties imposed by, or payable under this Act, except in so far as they may be inconsistent with it.

How this Act
shall be con-
strued.

17. The Act passed in the thirty-first year of Her Majesty's reign, and intituled: "An Act respecting the Inland Revenue," is hereby amended by repealing sub-sections six, seven, and eight of section thirty one of the said Act (imposing Duties of Excise on Manufactured Tobacco), and substituting the following in their place as sub-sections six, seven, and eight of the said section thirty-one:—

Excise Act
amended.
31 V., c. 8.

The three sub-sections substituted by this section for sub-sections six, seven and eight of 31 V. c. 8, were repealed by 37 V. c. 6, sec. 12 and the following substituted:—

"6. On Cavendish Tobacco and Snuff, and on manufactured Tobacco of all kinds, except Cigars and common Canada Twist, on every pound or less quantity than a pound, twenty cents."

Duties of
Excise on
Tobacco.

"7. On common Canada Twist, otherwise called *tabac blanc en torquette*, being the unpressed leaf, rolled and twisted, and made wholly from raw tobacco, the growth of Canada, for every pound or less quantity than a pound, ten cents."

"8. On Cigars, for every pound or less quantity than a pound, forty cents: subject to an abatement or allowance for moisture in calculating the weight for duty, to be fixed from time to time by regulations to be made by the Governor in Council."

The last clause of this section, which related to the time when the new provisions should come into force, is superseded by 37 V. c. 6, sec. 13, post page 340.

18. The following proviso is hereby added to the ninth sub-section of the thirty-first section of the said Act respecting the

Proviso added
as to certain
articles.

Inland Revenue, and shall be read and construed as part of the said section :—

“ Provided always that the undermentioned articles when “ manufactured in Bond shall, when entered for consumption in “ Canada, be subject to the following duties of Excise and to no “ other, that is to say :—

“ Vinegar, per gallon, three cents ;

“ Methylated Spirits, being composed of Alcohol mixed with “ Wood Naptha, in such proportions, and subject to such Regula- “ tions as may from time to time be made by the Treasury Board, “ —for every gallon of the strength of proof, and so in proportion “ for every greater or less strength, and for every less quantity “ than a gallon, twelve cents.”

Molasses may be manufac- tured into spirits in bond.

19. Any molasses imported into Canada may be removed in bond without the payment of duties of customs thereon, into a licensed distillery, and there used in the manufacture of spirits of any kind, subject to regulations to be made by the Governor in Council under the said Act respecting the Inland Revenue, and when so used the bonds given in that behalf shall be cancelled : and, if the spirits manufactured from such molasses are exported under the provisions of the said Act no duty shall be payable thereon ; but if such spirits are entered for consump- tion in Canada, then the duty of excise on the spirits manu- factured from such molasses shall be *sixty-five cents* per gallon ; and the Governor in Council may, by Regulations, fix the quantity or the mode of determining the quantity of spirits, which shall be held to be equivalent to any assigned weight of molasses.

This section was amended by 34 V. c. 15, sec. 4, by substituting in the eleventh line the words “ sixty-three cents ” for the words “ sixty-five cents.”

Drawback on duty-paid grain used in distilleries.

20. Subject to Regulations to be made by the Governor in Council, under the said Act respecting the Inland Revenue, any Licensed Distiller who imports and receives into his distillery, and uses in the manufacture of spirits therein, any foreign grain on which a duty of Customs has been paid, and exports spirits thereafter made in such distillery, shall on due proof of such use and export, be entitled to a drawback not exceeding one cent and a half of a cent per gallon of the strength of proof, on a quantity of the spirits so exported, not exceeding three gallons and a half for each bushel of duty-paid grain so consumed as aforesaid.

How the four next preced- ing Sections shall be con- strued.

21. The four next preceding sections of this Act shall be construed as forming part of the said Act respecting the Inland Revenue, all the provisions whereof shall apply to all things to be done, and the duties imposed by or payable under the said sections

as fully to all intents and purposes as if they were done, or had been imposed by or payable under the said Act.

22. The Governor may grant yearly coasting licenses to British vessels navigating the Inland waters of Canada above Montreal, and may direct that a fee of fifty cents shall be payable for each such license, and that the master or person in charge of any vessel navigating the said waters, and not having a Coasting License, shall, on entering any Port in the Dominion with such vessel, pay a fee of fifty cents if such vessel is not over fifty tons burthen, and of one dollar if she is of more than fifty tons burthen, to the collector on each entry, and a like fee of fifty cents or one dollar (according to the burthen of the vessel), on each clearance of such vessel at any such port, and such fees shall be payable, accordingly, before such vessel shall be entered or cleared; Provided that the Governor in Council may reduce or re-adjust such fees, but may not increase them; and provided also, that vessels merely passing through any of the Canadian Canals without breaking bulk shall not be liable to such fees.

Fees on vessels navigating without coasting licenses on entering certain ports.

Proviso.

34 VICT. CAP. 10.

An Act to amend the Acts relating to Duties of Customs.

[Assented to 14th April, 1871.]

IN amendment of the Acts relating to Duties of Customs, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The eleventh section of the Act passed in the thirty-third year of Her Majesty's reign, intituled, "An Act to amend the Acts respecting Customs and Inland Revenue, and to make certain provisions respecting Vessels navigating the Inland Waters of Canada above Montreal," is hereby repealed, and such repeal shall be held to have taken effect on and after the sixteenth day of March in the present year, 1871.

The 5 per cent added to duties by sec. 11 of 33 V. c. 9 repealed from 16th March, 1871.

2. So much of the said Act as imposes any duty of Customs on any of the following articles, namely—Coal, Coke, Wheat, Flour, Salt, Peas and Beans, Barley, Rye, Oats, Indian Corn, Buckwheat, and all other grain, Indian Meal, Oatmeal, and Flour or Meal of any other grain, is hereby repealed, and the said articles may be imported into Canada, or taken out of warehouse for consumption therein, without payment of any duty of Customs thereon; and such repeal shall be held to have taken

Duties on certain articles repealed from 1st April, 1871.

effect on and after the first day of April in the present year, 1871.

Materials used in Canadian manufactures may be transferred to Free list.

3. The Governor in Council may, from time to time, transfer to the list of goods which may be imported into Canada free of duty, any or all articles (whether natural products or products of manufactures), used as materials in Canadian manufactures; and any such materials mentioned in any Order in Council in that behalf, shall be free of Duties of Customs from the time therein appointed for that purpose.

4. *This Section was repealed by 37 V. c. 6, Sec. 10, and a new section substituted, but the Section so substituted was only temporary.*

5. *This Section which related to the North West Territory only, was repealed by 38 V. c. 49 (see Schedule A to that Act).*

Interpretation.

6. This Act shall be construed as forming one Act with the other Acts relating to Duties of Customs, and all words and expressions therein shall have the same meaning as in the said Acts.

35 VICT. CAP. 11.

An Act to repeal the duties of Customs on Tea and Coffee.

[Assented to 14th June, 1872.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Duties repealed from 1st July, 1872.

Proviso : as to tea and coffee on which duties have been paid.

1. All the duties of Customs whether, specific or *ad valorem*, now payable on Tea or Coffee imported into Canada, shall be repealed upon, from and after the first day of July in the present year, 1872 : Provided that Tea and Coffee on which such duties have been paid, may be re-bonded and re-warehoused at any time before the Twenty Ninth day of June in the said present year, under such regulations (if any), as the Governor in Council may see fit to make, and that on their being so re-bonded and re-warehoused, the specific duties paid on such Tea and Coffee shall be repaid to the owner thereof, as a drawback, by the

Collector of Customs at the port where they are so re-bonded and re-warehoused, or by the Receiver General.

By 37 V. c. 6 sec. 14 so much of this Act and the next (35 V. c. 12) as provides that Tea or Coffee imported in any way into Canada shall be free of duty is repealed.

35 VICT. CAP. 12.

An Act to amend an Act of the present Session, and to enable the Governor in Council to impose a duty on Tea and Coffee imported from the United States, in the case therein mentioned.

[Assented to 14th June, 1872.]

IN amendment of the Act of the present Session, intituled, Preamble. 35 V., c. 11.
"An Act to repeal the duties of Customs on Tea and Coffee,"
 Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Provided always that, if at any time any greater duty of customs should be payable in the United States of America on tea or coffee imported from Canada, than on tea or coffee imported from any other country, then the Governor in Council may impose on tea or coffee imported into Canada from the said United States, a duty of customs equal to the duty payable in the United States on tea or coffee imported from Canada: Provision in case of a differential duty in United States. Provided that tea or coffee imported into Canada from any country other than the said United States, but passing in bond through the United States shall be free from duty. Exception.

By 37 V. c. 6 sec. 14 so much of any order in Council in force at the date of the passing of this Act as imposed any duty on tea and coffee imported into Canada from the United States was repealed. See also note to last Act.

37 VICT. CAP. 6.

An Act to amend the Act thirty-first Victoria, chapter forty-four and other Acts amending the same; and the Tariff of Duties of Customs imposed by the said Acts, and to alter certain Duties of Excise.

[Assented to 26th May, 1874.]

HER MAJESTY, by and with the advice and consent of Preamble.
 the Senate and House of Commons of Canada, enacts
 as follows:—

Certain duties repealed and new duties substituted on articles mentioned in section 2.

1. So much of any Act imposing or respecting duties of Customs, or of any schedule annexed to any such Act, or of any Order in Council under any Act, as imposes any specific duty of Customs on any of the goods or articles mentioned in the next following section is hereby repealed; and the specific Duties mentioned in the said section shall be substituted for those imposed on them by any such Act or Schedule or Order.

The new duties.

2. There shall be raised, levied, collected and paid on the following articles, when imported into Canada, or taken out of warehouse for consumption therein, the several duties of Customs set opposite to them respectively, that is to say:—

Cigars.....	per lb.	\$0 70
Tea, Green or Japan.....	“ “	0 04
“ Black.....	“ “	0 03
Coffee, Green.....	“ “	0 02
“ Ground or Roasted.....	“ “	0 03

Spirits and Strong Waters, viz:—

Spirits not sweetened.

Spirits and Strong Waters, not having been sweetened or mixed with any article so that the degree of strength thereof cannot be ascertained by Sykes' hydrometer,—for every gallon of the strength of proof by such hydrometer, and so in proportion for any less strength than the strength of proof, and for every greater or less quantity than a gallon, viz:—

Brandy, Geneva, Alcohol, Rum, Gin, (including Old Tom), Whiskey, and unenumerated articles of like kindper gallon \$1.00

Spirits sweetened.

Other Spirits, being sweetened or mixed so that the degree of strength cannot be ascertained as aforesaid, namely:—

Rum-Shrub, Cordials, Tafia, Scheidam Schnapps, Bitters, and unenumerated articles of like kind	per gallon	\$1.50
Cologne Water and Perfumed Spirits, not in flasks.....	per gallon	1.50
Cologne Water and Perfumed Spirits, when in flasks or bottles; for each flask or bottle not weighing more than four ounces.....		0.05
Unenumerated Spirits and Strong Waters per gallon		1.50

Spirits mixed with other ingredients.

Spirits and Strong Waters imported into Canada, mixed with any ingredient or ingredients, and although thereby coming under the denomination of Proprietary Medicines, Tinctures, Essences, Extracts or any other denomination, shall be nevertheless deemed “Spirits or Strong Waters,” and subject to duty as such.

FRUITS preserved in Brandy or other Spirits
per gallon.....\$1.50

3. So much of any such Act or schedule, as aforesaid, as imposes any duty of Customs upon Tobacco and Snuff or Wines, is hereby repealed; and the following articles, when imported into Canada, or taken out of warehouse for consumption therein, shall be respectively charged with the several duties of Customs hereinafter mentioned, that is to say:—

Duties on certain other articles repealed and others substituted.

Tobacco and Snuff, twelve and one-half *per centum ad valorem*, Tobacco, and twenty-five cents per pound;

Wines of all kinds, including Ginger, Orange, Lemon, Gooseberry, Strawberry, Raspberry, Elder and Currant Wines, a specific duty of thirty cents per gallon (five quart and ten pint bottles to be held to contain a gallon) on all wines containing less than twenty per cent. of alcohol, and not worth more than forty cents per gallon;

On all other Wines, except sparkling, sixty cents per gallon, when imported in wood; and if imported in bottle, one dollar and fifty cents per dozen of quart bottles (five whereof contain a gallon), and so in proportion;

Wines.

On all Sparkling Wines, three dollars per dozen of quart bottles (five whereof contain a gallon), being at the rate of one dollar and twenty-five cents per gallon, and so in proportion:

Provided always that no liquor containing more than twenty-five per cent. of alcohol shall be admitted as wine.

Proviso.

4. So much of any such Act or schedule, as aforesaid, as imposes any duty of Customs on “non-enumerated” goods and packages is hereby repealed, and the following provisions substituted therefor, that is to say:—

New duties on certain packages and on non-enumerated goods.

The following packages, viz:—Bottles, Jars, Demi-johns and Carboys, whatever be their contents, and Brandy Casks, barrels or other packages in which spirituous liquors, wines and malt liquors are contained, and barrels or other packages in which petroleum oils or the products thereof are contained; and all goods not enumerated in this or any other Act as charged with any duty of Customs, and not declared free of duty by this Act or some other Act or provision unrepealed by this Act, shall be charged with a duty of Customs of seventeen and one half *per centum ad valorem*, when imported into Canada, or taken out of warehouse for consumption therein:

The duty.

But all packages not hereinbefore specified, and not specially charged with duty under section four of the Act thirty-first Victoria, chapter forty-four, or any other unrepealed enactment,

Proviso as to certain packages.

and being the ordinary or usual packages in which goods are packed for exportation according to the general custom and usage of trade, shall be free of duty.

Duty of ten per cent *ad valorem* imposed on certain goods now free of duty or subject to a higher rate.

5. So much of any such Act or schedule as aforesaid as declares any of the following goods being "Manufactures and Products of Manufactures," that is to say,—

Locomotive Engine Frames, Axles, Cranks, Hoop iron or Steel for tires of wheels, bent and welded Crank Axles, Piston Rods, Guide and Slide Bars, Crank Pins and Connecting Rods,

Machinery, for mills and factories of kinds which are not then manufactured in the Dominion,

Cotton Netting, for India-rubber shoes and gloves,

Cotton Warp, not coarser than No. 40,

Cotton Thread, in hanks coloured and unfinished, Nos. 3 and 4 ply, white, not under No. 20 yarn,

Cotton Thread, on spools,

Glass Paper and Glass Cloth,

Woollen Netting for India-rubbers and gloves,

Linen Machine Thread,

Plush, for hatters' use, and for gloves,

Prunella,

Machine Twist and Silk Twists,

Felt used for gloves,

Felt for hats and boots,—

The duty.

to be free of duty, or subject to any higher duty than ten *per centum ad valorem* is hereby repealed; and the said goods or articles respectively when imported into Canada or taken out of warehouse for consumption therein shall be charged with a duty of Customs of ten *per centum ad valorem*.

Duty of five per cent *ad valorem* imposed on certain goods now free of duty.

6. So much of any such Act or schedule as aforesaid, as declares any of the following goods being "Manufactures and Products of Manufactures," that is to say,—

Ship materials, viz :—

Binnacle Lamps,

Blocks and patent bushes for blocks,

Bunting,

Compasses,

Dead Eyes,

Dead Lights,

Deck Plugs,

Knees, iron,

Pumps and pump gear,

Riders, iron,

Shackles,

Sheaves,

Signal Lamps,

Steering apparatus,

Travelling Trucks,
 Wedges,
 Cables, hemp or grass,
 Cordage,
 Sail cloth or canvas,
 Varnish, black and bright,
 Iron of the following descriptions, viz—
 Iron, scraps and galvanized,
 Bars, puddled,
 Blooms and Billets, puddled or not puddled,
 Bolts and spikes, galvanized,

Wire, whether galvanized or not, except for wire rigging,
 to be free of duty, is hereby repealed; and the said goods when
 imported into Canada or taken out of warehouse for consump- The duty.
 tion therein, shall be charged with a duty of Customs of five
per centum ad valorem.

7. Schedule C. to the Act passed in the thirty-first year of
 Her Majesty's reign, chaptered forty-four, containing the list Schedule C of
free goods to
31 V., c. 44,
amended.
 of "Free Goods," is hereby further amended by striking out of
 the said schedule under the heading "Drugs, Dye Stuffs, Oils
 and Colors not elsewhere specified," the words "Woods when
 chiefly used in dyeing;" and substituting therefor the words
 "Woods unmanufactured when chiefly used in dyeing," and by
 adding to the said schedule, under the heading, "Manufactures
 and products of manufactures," the words "Wool Waste," and
 under the heading "Natural Products," the words "Flax Seed."

8, The fair market value for duty of all goods upon which
 any *ad valorem* duty of Customs is chargeable under this Act How the value
of goods for
duty shall be
ascertained.
 or any other Act, shall be ascertained and determined, except
 as hereinafter provided, in accordance with the provisions of the
 sections twenty-nine to forty-six, both inclusive, of the Act
 passed in the thirty-first year of Her Majesty's reign, intituled
 "*An Act respecting the Customs*."---so much of any Act as is 31 V., c. 6.
 inconsistent with this section being hereby repealed.

9. Whereas difficulties have frequently arisen in determining
 the fair market value for duty of goods imported into Canada,
 being the manufacture or production of foreign countries or of
 Great Britain, such as Musical Instruments, Sewing Machines,
 Agricultural Machines or Implements, Medical preparations,
 commonly called Patent Medicines and other similar goods, the
 prices of which are published by the manufacturers or producers,
 or persons acting in their behalf, it is hereby enacted that the
 Governor in Council may from time to time, fix and determine
 a certain rate of discount which may be deducted from such pub-
 lished prices of any such manufactures or productions, and the
 remainder of such published prices after deducting such rate of
 discount, shall be deemed and taken to be the fair market values
 for duty of any such manufactures or productions as may or
 shall be specified in such Order in Council, anything in this or
 any other Act to the contrary thereof notwithstanding. Special provi-
sion as to the
value of cer-
tain articles.

Section 4 of 34
V., c. 10
repealed, and
new section
substituted.

10. The fourth section of the Act passed in the thirty-fourth year of Her Majesty's reign, intituled : "*An Act to amend the Act relating to Duties of Customs,*" is hereby repealed, and the following is substituted therefor :—

Governor in
Council may
admit certain
machinery
free, until 1st
January 1875.

"4. Notwithstanding anything contained in this or any other Act, the Governor may until the first day of January, one thousand eight hundred and seventy-five, authorize the admission free of duty of any machinery to be used in any Canadian manufactory, on satisfactory evidence that like machinery is not then manufactured in Canada."

31 V., c. 8,
amended.

11. The sub-section numbered two, of the thirty-first section of the Act thirty-first Victoria, chapter eight, intituled "*An Act respecting the Inland Revenue*" as amended by the first section of the Act thirty-first Victoria, chapter fifty, is hereby repealed, and the following substituted therefor :—

Duty of excise
on spirits in-
creased.

"2. On every wine gallon of spirits of the strength of proof by Sykes' hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any less quantity than a gallon, seventy-five cents."

Duties of
excise on to-
bacco, snuff,
and liquors
increased.

12. The sub-sections numbered respectively six, seven and eight, substituted by the Act thirty-third Victoria, chapter nine, for the sub-sections so numbered of the said thirty-first section of the said Act thirty-first Victoria, chapter eight, are hereby repealed, and the following substituted therefor, respectively :—

"6. On Cavendish Tobacco and Snuff, and on manufactured Tobacco of all kinds, except Cigars and common Canada Twist, on every pound or less quantity than a pound, twenty cents."

"7. On common Canada Twist, otherwise called *tabac blanc en torquette*, being the unpressed leaf, rolled and twisted, and made wholly from raw tobacco, the growth of Canada, for every pound or less quantity than a pound, ten cents."

Abatement
for moisture
on cigars.

"8. On Cigars, for every pound or less quantity than a pound, forty cents : subject to an abatement or allowance for moisture in calculating the weight for duty, to be fixed from time to time by regulations to be made by the Governor in Council."

When the
increased
duties under
this Act shall
be held to
have come
into force.

13. The foregoing sections of this Act, and the alterations thereby made in the duties of Customs or of Excise, on any articles or goods, shall be held to have come into force and to have taken effect on the first day of May, in the present year of Our Lord One thousand eight hundred and seventy-four, and to apply to and determine the duty payable on any article or goods imported into Canada or taken out of warehouse for consumption therein, or (as respects duties of Excise) manufactured or made or on which duties of Excise have become payable, on or

after said day : But all duties of Customs or of Excise paid Proviso.
under authority of the resolutions of the House of Commons,
passed on the fourteenth day of April in the said year, on any
goods entered for duty between that date and the said first day
of May, shall be deemed and taken to be the lawful duties pay-
able thereon ; provided, nevertheless, that the Minister of Cus- Proviso.
toms or the Minister of Inland Revenue, respectively, may order
the refund of any sum so paid in excess of the duties with which
such goods are chargeable under this Act.

14. So much of any Order in Council now in force under the Certain provisions of 34 V., chaps. 11 and 12, as to tea and coffee repealed.
Act passed in the thirty-fifth year of Her Majesty's reign,
chaptered twelve, as imposes any duty on Tea or Coffee imported
into Canada from the United States, and so much of the said
Act or of the Act passed in the same year of Her Majesty's
Reign and chaptered eleven, as provides that Tea or Coffee im-
ported, in any way, into Canada, shall be free of duty, is here-
by repealed.

15. The foregoing sections of this Act shall be construed and How this Act, &c., shall be construed and apply.
taken as forming one Act with the Acts hereinbefore cited and
amended ; and all words and expressions used in this Act, shall
have the meaning assigned to them in the said Acts, and all
provisions of the said Acts, and of the regulations made or to
be made under them or either of them, or continued in force by
them or either of them, shall apply to the duties imposed by or
payable under this Act, except in so far as they may be incon-
sistent with it.

38 VICT. CAP. 35.

An Act to repeal the export duty on Stave Bolts and
Oak Logs.

[Assented to 8th April 1875.]

WHEREAS it is expedient to amend the Act 31 Victoria, Preamble, Chapter 44, so far as the same relates to the collection 31 V. c. 44.
of Export Duties upon Stave Bolts and Oak Logs, as provided
under Schedule F of the said Act ; Therefore Her Majesty, by
and with the advice and consent of the Senate and House of
Commons of Canada, enacts as follows :—

1. The Export Duty upon Staves Bolts and Oak Logs is Duty repealed.
hereby repealed.

3. INLAND REVENUE.

31 VICT. CAP. 49.

An Act constituting the Department of Inland Revenue.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows :

Department constituted.

1. There shall be a department to be called the "Department of Inland Revenue," over which the Minister of Inland Revenue for the time being, appointed by the Governor, by Commission under the Great Seal, shall preside.

Minister.

Commissioner and Assistant Commissioner.

2. There shall be a Commissioner of Inland Revenue and an Assistant Commissioner who shall also be Inspector of Inland Revenue, both of whom shall hold office during pleasure, and shall perform such duties as may be assigned to them respectively, from time to time, by law, or by the Governor-General, or by the Minister of Inland Revenue.

Of what matters the Department shall have the control and management.

3. The Department of Inland Revenue shall have the control and management—

1. Of the collection of all duties of Excise ;
2. Of the collection of Stamp Duties and the preparation and issue of stamps and stamped paper, except postage stamps ;
3. Of Internal Taxes ;
4. Of Standard Weights and Measures ;
5. The administration of the laws affecting the culling and measurement of timber, masts, spars, deals and staves, and other articles of a like nature, and the collection of slidage and boomage dues ;

6. The collection of Bridge and Ferry tolls and rents ;

Subject to special Acts.

Subject always to the provisions of the Acts relating to the said subjects and matters connected therewith.

Governor may appoint officers, and fix their pay, &c.

4. The Governor-General may, from time to time, appoint officers and other persons to carry out this Act and all other Acts relative to the matters and things placed under the control

and management of the Department of Inland Revenue, or any Order in Council or regulations made thereunder, and the Governor in Council may assign the names of office of such officers and persons and grant them such salaries or pay for their labour and responsibility as he may deem reasonable and necessary, and may appoint the times and manner in which the same shall be paid; but no such officer or person shall receive a higher annual salary than is allowed in his case by any Act of the Parliament of Canada, respecting the Civil Service generally, then in force. Proviso.

5. The Governor General may appoint a Board of Examiners whose duty it shall be to examine all persons employed, or who have applied in the manner and have complied with the conditions prescribed by departmental regulations, for employment under the Department of Inland Revenue, to classify them according to their respective qualifications and to grant certificates accordingly. Board of Examiners of applicants for employment.

6. The Minister of Inland Revenue shall annually make to the Governor-General, to be laid before Parliament, within fifteen days after the meeting thereof, a report and statement of the transactions and affairs of the Department during the year then next preceding. Annual Report by Minister.

7. So much of any Act or law as may be inconsistent with this Act, or as makes any provision in any matter provided for by this Act, other than such as is hereby made, is repealed, except only as to things done, obligations contracted or penalties incurred before the coming into force of this Act. Inconsistent enactments repealed.

*31 VICT. CAP. 8.

An Act respecting the Inland Revenue.

[Assented to 21st December, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

* The following Acts and parts of Acts are directed to be read as one with this Act, 31 V. c. 50, (see sec. 22 of that Act); 31 V. c. 51, (see sec. 14 of that Act). 33 V. c. 9, secs. 17-20 (see sec. 21 of that Act); 37 V. c. 6, (see sec. 15 of that Act); 37 V. c. 8 (see sec. 25 of that Act).

Repealing
clause.

Canada.
27-28 V. c. 3.

29 V. c. 3.

29-30 V. c. 7.

Nova Scotia
R. S. cap. 9.

30 V. c. 14.

New Bruns-
wick 23 V. c.
20.

Exceptions
from repeal.

Mode of con-
struing this
Act

1. The Act of the Legislature of the late Province of Canada, passed in the session held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, intituled : *An Act to amend and consolidate the Acts respecting duties of Excise, and to impose certain new duties*—and the Act of the said Legislature passed in the twenty-ninth year of Her Majesty's Reign, intituled : *An Act to amend the Act respecting duties of Excise*,—and the Act of the said Legislature passed in the session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, intituled : *An Act to amend the Acts respecting duties of Excise, and to alter the duty thereby imposed on spirits*,—and the ninth chapter of the Revised Statutes of Nova Scotia (third series), intituled : *Of Excise duties*,—and so much of the Act of the Legislature of the Province of Nova Scotia, passed in the thirtieth year of Her Majesty's Reign, and intituled : *An Act relating to the refining of Sugar and the manufacturing of Tobacco*,—as relates to the manufacturing of Tobacco,—and the Act of the Legislature of the Province of New Brunswick, passing in the twenty-third year of Her Majesty's Reign, intituled : *An Act relating to Distilleries*,—and so much of any other Act or law as may be inconsistent with this Act, or makes any provision for any matter provided for by this Act, are and is hereby repealed,—except that such repeal shall not affect the repeal of any former Act or provision of law, any liability incurred, any duty accrued, any bond or security given, any action, suit or proceeding pending, any penalty, forfeiture or punishment incurred for any offence committed, any appointment, Order in Council, regulation or order made or given and not inconsistent with this Act, or anything lawfully done before this Act comes into force,—with respect to all which, and to any transaction, matter or thing having occurred before that time, the said repeal shall not apply ; and this Act shall, as respects the Provinces of Ontario and Quebec, be construed as an amendment and consolidation of the Acts of the Legislature of the late Province of Canada hereby repealed, and not as a new law, in so far as its provisions are not inconsistent with those of the said repealed Acts, nor shall any duty hereby imposed be held to be a new duty, if it is the same in amount as that heretofore payable.

INTERPRETATION AND DEFINITION OF TERMS.

Interpretation
of certain
words and
expressions.

2. The following terms and expressions wherever used in this Act, unless it be otherwise specially provided or there be something in the context repugnant to or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say :

Still.

“*Still*” means and includes any distilling apparatus whatever for the distilling or making of spirits ;

Spirit Receiver.

“*Spirit Receiver*” means the vessel or vessels into which the spirit is conveyed as hereinafter provided from the tail of

the worm for measurement, and in which the quantity and strength upon which the duty is payable, is ascertained and determined by the Officer of Excise ;

“ *Rectifier* ” means and includes any pipe, vessel or still into Rectifier. which the spirit is conveyed after leaving the spirit receiver, for the purpose of rectification, by redistillation, filtration or by any other process ;

“ *Proof Spirits* ” or “ *Spirits of the strength of Proof*,” mean Proof Spirits. any spirit having the strength of proof by Sykes’ Hydrometer ;

A “ *Distillery* ” means and includes any place or premises,— Distillery.

Where any process of fermentation for the production of wash is carried on, or

Where any wash is kept or produced for the purpose of distillation, or

Where any mash-tub, fermenting-tun, worm or still for the distillation of spirits is set up or used, or

Where any process of distillation whatever of spirits is carried on, or

Where any process of rectification of spirits either by redistillation, filtration or other process is carried on, or

Where any spirits are manufactured or produced from any substance whatever, by any process whatever :

And every office, workshop, warehouse, granary, fermenting-room, mash-house, still-room, rectifying-house, vault, cellar, shed, yard or other place owned or occupied by, or on behalf of or for the use of any Distiller, or wherein any part of his business as such is transacted or where any grain, matter, material or apparatus suitable for or adapted to the production of spirits, or which is or is to be used in the production or rectification of spirits is kept or stored, or where any of the products of the distillery are kept or stored, or where any process of manufacture is carried on, shall be held to be included in and to form part of the distillery to which they are attached or are appurtenant ;

“ *Distiller* ” means and includes any person who conducts, Distiller. works, occupies or carries on any Distillery, or who rectifies any spirits by any process whatsoever, either by himself or his agent ; and every person making or keeping beer or wash prepared or fit for distilling, or low-wines or faints, or having in his possession or use a Still or Rectifying apparatus, shall be deemed to be a distiller and liable to the several duties, obligations, penalties and forfeitures imposed by law on distillers ;

- Beer. " *Beer* " means and includes Beer, Ale, Porter, Lager Beer and all other Malt Liquor ;
- Brewery. " *Brewery* " means and includes any place or premises where any Beer or Malt Liquor, or Beverage in imitation of Malt Liquor, is manufactured ; and all Offices, Granaries, Mash-rooms, Cooling-rooms, Vaults, Cellars and Store-rooms connected therewith or in which any material to be used in the manufacture of Beer or Malt Liquor is kept or stored, or where any process of manufacture is carried on, or where any apparatus connected with such manufacture is kept or used, or where any of the products of Brewing or Fermentation are stored or kept, shall be held to be included in and to form part of the Brewery, to which they are attached or are appurtenant ;
- Brewer. " *Brewer* " means and includes any person who occupies, carries on, works or conducts any Brewery either by himself or his agent ;
- Malt. " *Malt* " means and includes all preparations of grain or leguminous seeds that have been steeped in water, allowed to germinate and the germination checked by drying, or which is to be used for the production of Beer, or that may be malted for the purpose of distillation ;
- Malt-house. " *Malt-House* " means and includes any place or premises where any malt is manufactured, made or produced, and all offices, granaries, malt-houses, kilns, malt-warehouses and store rooms connected therewith, or in which any grain, leguminous seeds or material to be used in the manufacture of malt are kept or stored, or where any process of such manufacture is carried on, or where any apparatus or utensils connected with or used in such manufacture are kept or used, or where any of the products of malting are stored or kept, shall be held to be included in and to form part of the malt-house to which they are attached or are appurtenant ;
- Maltster. " *Maltster* " means and includes any person who occupies, carries on, works or conducts any malt-house either by himself or his agent ;
- Cistern. " *Cistern* " means and includes any vessel, vat, or other apparatus or utensil wherein any grain or leguminous seed is steeped or wetted during any of the processes of converting it into malt ;
- Couch-frame. " *Couch-Frame* " means and includes any place or compartment into which the grain is conveyed after being removed from the cistern ;
- Malt-floor. " *Malt-Floor* " means and includes all those floors in the malt-house whereon the grain is placed during the next process after its removal from the couch-frame ;

“*Kiln*” means and includes all heated floors or apparatus Kiln. wherein or whereon grain is dried or roasted in the next process after its removal from the malt-floor ;

“*Raw Tobacco*” means unmanufactured tobacco, or the leaves Raw Tobacco. and stems of the plant before it has passed through any process of Manufacture ;

“*Tobacco Manufactory*” means and includes any place or Tobacco ma- premises where Tobacco is manufactured or worked up ; and nufactory. every Work-shop, Office, Store room, Warehouse, Shop, Shed, Yard or other place where any of the raw material is or is to be stored, or where any process connected with the manufacture or preparation of Tobacco is, or is intended to be carried on, or where any of the products of the manufacture are, or are intended to be stored, shall be held to be included in and to form part of the Tobacco Manufactory to which they are attached or are appurtenant ;

“*Tobacco Manufacturer*” means and includes any one who Tobacco ma- by himself or his agent carries on any business or process of nufacturer. manufacturing or working up, or in any way preparing raw tobacco for smoking, chewing, for snuff or for any other purpose ; and the manufacturing or preparing of Cigars shall be a manufacturing of Tobacco within the meaning of this Act ;

“*Bonded Manufacturer*” means and includes any person Bonded manu- who by himself or his agent carries on the manufacture of any factory. article or compound wherein goods liable to duties of Customs or Excise are used before the duties to which they are liable are paid ;

“*Bonded Manufactory*” means and includes any place or Bonded manu- premises where any article or compound is manufactured or factory. made in the compounding or manufacturing whereof goods liable to duties of Customs or Excise are used before the duties to which they are liable are paid ; and every place where any such goods are warehoused, stored or kept shall be held to form a part of the bonded manufactory to which it is attached or appurtenant ;

“*Stamp*” means any distinctive mark, label or seal, Stamp. impressed upon or affixed to any goods, material, merchandise, or apparatus, subject to the provisions of this Act, or of any other Act, passed or to be passed respecting Excise, or of any Order in Council, or departmental regulation made under such provisions, or impressed upon or affixed to any package in which any such goods, material, or merchandise are contained ; and such stamps respectively shall be made, impressed and affixed, in such manner, and by means of such dies or other instruments as shall, from time to time, be ordered and regulated by the Minister of Inland Revenue ;

Subject to
Excise.

The words "*subject to Excise*" wherever they occur in this Act, shall mean—"subject to the provisions of this Act, or to any other Act passed or to be passed respecting duties of Excise or the Inland Revenue, or to any proclamation, Order in Council, or departmental regulation published or made or that may be hereafter published or made under such provisions;" and every place or premises wherein licit or illicit, licensed or unlicensed, mashing, fermentation, distillation, rectifying, brewing, or manufacturing of Tobacco, or manufacturing of any article in bond, or manufacturing of any article on which there is a duty of Excise, or which is manufactured wholly or partly out of any articles on which there is a duty of Excise or Customs and on which such duty has not been paid, is carried on or performed,—and every worm, still, mash-tub, fermenting-tub, or other tool, utensil, apparatus or thing, which is or might be used for such purposes lawfully or unlawfully shall be deemed to be "*subject to Excise*;"

Superior Offi-
cer of Inland
Revenue.

The words "*Superior Officer of Inland Revenue*" shall mean and include the Commissioner, or Assistant Commissioner, or Inspector of Inland Revenue, or any person doing duty as the deputy head of the department, and any Inspecting Officer of Inland Revenue or of Excise.

Departmental
Regulation.

The words "*Departmental Regulation*," whenever they occur in this Act, shall mean and include all Regulations and rules promulgated by the Department of Inland Revenue and duly authenticated by the deputy head of that department.

OF LICENSES.

Parties not to
carry on any
business sub-
ject to excise
without
license.

3. From and after the passing of this Act no person, except such as shall have been licensed as herein provided, shall carry on the business or trade of a distiller, or brewer, or maltster or of a manufacturer of tobacco, or use any utensil, machinery or apparatus suitable for carrying on any such trade or business or any business subject to Excise:

Or to keep any
apparatus used
in such busi-
ness.

2. Neither shall it be lawful for any person or persons to have in his or their possession or keep any still, worm, mash-tub, fermenting-tun, distilling, rectifying or brewing apparatus, or any malt-kiln or malt-floor, nor any apparatus for the manufacture or production of malt, nor any tobacco press or mill for cutting or grinding tobacco, without having given, when such articles come into his possession and on or before the tenth day of July in each subsequent year, a full and particular list, description and return thereof to the Collector of Inland Revenue, of the same nature and in the same form as is hereby required in an application for a license to use similar apparatus or machinery;

Exception as
to beer brewed
for private use.

3. Except that utensils used by any person solely for the purpose of brewing Beer for the use of himself and family, and not

for sale, are exempt from the provisions of this Act, and Beer so brewed shall not be liable to any duty under this Act, nor shall any license be required by any person so brewing for his own private use ;

4. Nor shall any person growing tobacco on his own lands or property and manufacturing the same for his own private use and not for sale, require a license for so doing, nor shall the tobacco so manufactured be subject to excise duty. Or growing tobacco for private use.

4. Every license issued under any Act hereby repealed, whether of the late Province of Canada, or of the Province of Nova Scotia or New Brunswick, for any purpose for which a license is required by this Act, shall continue in force for the period for which it was granted, and the holder thereof shall be deemed to be licensed under this Act for the purposes for which such license was granted to him ; and he shall be subject to all the provisions, penalties and forfeitures, provided for in this Act, to the same extent, and in the same manner as if such license were issued under this Act. Existing licenses continued.

5. Every other license shall terminate on the thirtieth day of June, in every year, and except as is herein otherwise provided, the same amount shall be paid for every such license, whether it has a full year or only a part of a year to run from the date when it is granted ; except that in the case of any application for any such license by a party who has not theretofore obtained a license, and who is beginning business, such license, if applied for on or after the first day of January, may be issued to such applicant for the remainder or until the end of the fiscal year, upon payment of one half only of the annual license duty or fee otherwise payable on such license. When annual licenses shall expire ; and as to licenses for less than a year ; and the duty to be paid for them.

Here follows a temporary proviso applicable only to Nova Scotia and New Brunswick.

6. Every person requiring a license under this Act shall make application therefor in writing over his signature to the Collector of Inland Revenue, within whose district or Revenue division, the business for which such license is required, is to be carried on, and every such application shall be made in the form to be prescribed by the Minister of Inland Revenue. Application for license.

7. Every application for a license shall state the exact locality, in the City, Town, Village, Township, or local Municipality, as the case may be, where the premises are situated, in which the business for which the license is required is to be carried on, and shall contain or have annexed thereto—a full and particular description in writing, with such models, diagrams or drawings as may be needed for fully understanding the same, of all the machinery, buildings, premises and places where such business is to be carried on, or where any of the materials or commodities used or to be used therein, or any of What the application must show.

License to
apply to one
place only.

the products thereof, are or are to be stored or kept, and of the power by which the machinery so used is to be worked; and the description shall also describe in detail every building and every separate room, cellar, vault, shed or other compartment thereof, specifying what use is to be made of each, and stating the designation which is to be placed over the entrance to each, in accordance with the provisions of this Act; and no one license shall authorize a person to keep or use a still, or make wort or wash, Low-wines or Spirits, or brew Malt Liquor or manufacture Malt or Tobacco, in any other place than the house or premises mentioned in the application for such license.

Names of sure-
ties and capa-
city of utensils
to be con-
tained in
application.

8. Every such application shall also state the names of the parties proposed by such applicant as his sureties in accordance with the requirements of this Act; and it shall also contain a statement of the maximum quantity of each article which the utensils are capable of mashing, fermenting, distilling or otherwise producing within each half month.

Description of
utensils for
distilling or
brewing.

9. Every application for a license for distilling or brewing, or for manufacturing in Bond, shall also contain a list and description of all utensils, stills, worms, boilers, mash-tubs, fermenting-tuns, coolers, underbacks, spirit-receivers, or other vessels or machinery, which it is intended should be placed in the premises, or which are on the premises at the time of application, specifying distinctly and clearly—

Dimensions of
still, &c.

1. The dimensions and capacity of every still, mash tub, fermenting tun, cooler, spirit receiver, and of every other utensil, in inches and wine gallons, the purpose to which each is to be applied, and the locality or position in the building in which it is or is to be placed or used; and also—

Description of
pipes, &c.

2. A description of every pipe, conduit, trough, hose, valve, pump, cock, and of every means of connection or communication between the several vessels or utensils used in or about the distillery or brewery, with a description and drawing or model shewing the exact position of every cock, connection and joint.

Of apparatus
for malting.

10. Every application for a license to carry on business as a maltster shall also contain a description of all cisterns, couch-frames, malt-floors, kilns, malt-warehouses or other places, utensils, apparatus or things whereon or wherein malt is to be made, manufactured or stored, in every case stating the dimensions, cubical contents or area as the case may be, of the cisterns, couch-frames, malt-floors, kilns or store-houses.

For manufac-
turing tobacco.

11. Every application for a license for the manufacturing of tobacco, shall also contain a list and description of all tools and machinery used or proposed to be used in the business for which the license is sought, especially of all presses, cutting ma-

chinery and mills, stating the part of the building in which they are to be used.

12. No license shall be granted for carrying on any business or trade under this Act, until after a survey has been made by an officer of Inland Revenue duly authorized for that purpose by departmental regulation or otherwise, of the building or place wherein such business is to be carried on, nor until such officer has reported that all the conditions and provisions of this Act and of any Order in Council or departmental regulation made in virtue thereof, have been complied with as respects such place; And no license shall in any case be granted for carrying on any business, in any building which forms part of or is appurtenant to, or which communicates by any common entrance with any shop or premises wherein any article to be manufactured under such license is sold by retail, or wherein there is kept any broken packages of such articles.

Premises referred to in license to be surveyed by an Officer of Inland Revenue.

13. A license to carry on the business or trade of a Distiller may be granted to any party, who has complied with the other requirements of this Act, provided that the granting of such license has been approved by the District Inspector, and that the party has, jointly with not less than two and not more than six good and sufficient sureties, entered into a bond to Her Majesty, Her Heirs and Successors, in a sum equal to the amount at which the Collector or some superior officer of Inland Revenue estimates the duties to be paid by the party to whom the license is granted, on the products of the distillery for which it is granted, worked to its full capacity, during one month of the time for which the license is to remain in force, the party obtaining the license being bound in the full amount of such estimate, and the sureties each severally for such amount as that the sums for which they are respectively bound shall together be equal to the amount of such estimate; and such bond shall be taken before the Collector or superior officer of Inland Revenue, who shall cause such sureties to justify as to their sufficiency, each for the sum for which he is bound, by affidavit to be made before him and endorsed upon the bond, and shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the party to whom the license is to be granted will become liable to render or pay under this Act, and that such party will faithfully comply with all the requirements of this Act, according to their true intent and meaning, as well with regard to such accounts, duties and penalties as to all other matters and things whatsoever.

Conditions of license, and security to be given by a Distiller.

14. A license to carry on the trade or business of a Rectifier may be granted to any party who has complied with the provisions of this Act, provided that the granting of such license has been approved by the District Inspector and that the party has, jointly and severally with two good and sufficient sureties, entered into a bond to Her Majesty, Her Heirs and Successors in

Conditions of license, and security to be given by a Rectifier.

the sum of four thousand dollars; and such bond shall be taken before the Collector of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the party to whom the license is to be granted will become liable to render or pay under the provisions of this Act, and that such party will faithfully comply with the requirements thereof according to their true intent and meaning; as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever.

Conditions of
license and
security to be
given by a
Maltster or
Tobacco Man-
ufacturer.

15. A license to carry on the trade or business of a Maltster or Tobacco Manufacturer may be granted to any party who has complied with the provisions of this Act, provided that the granting of such license has been approved by the District Inspector, and that the party has, jointly and severally with two good and sufficient sureties, entered into a bond to Her Majesty, Her Heirs and Successors, in a sum equal to the amount at which the Collector of Inland Revenue estimates the duties to be paid by the party to whom the license is granted, during two months of the time it is to remain in force; and such bond shall be taken before the said Collector of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him, by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts, and the payment of all duties and penalties which the party to whom the license is to be granted, will become liable to render or pay under the provisions of this Act, and that such party will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever.

Conditions of
license and
security to be
given by a
Brewer.

16. A license to carry on the trade or business of a Brewer may be granted to any party who has complied with the provisions of this Act, provided that the granting of such license has been approved by the District Inspector, and that the party has, jointly and severally, with two good and sufficient sureties, entered into a bond to Her Majesty, Her Heirs and Successors, in the sum of one thousand dollars, and such bond shall be taken before the Collector of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts and the payment of all penalties to which the party to whom the license is granted will become liable under the provisions of this Act, and that such party will faithfully comply with the requirements thereof according to their true intent and meaning, as well with regard to such accounts and penalties as to all other matters and things whatsoever.

17. The Governor in Council may, in his discretion, authorize the manufacture in bond of such dutiable goods as he may from time to time see fit to designate, in the manufacture or production whereof spirits or other articles subject to duties of Customs or Excise are used, by persons licensed to that effect, and subject to the provisions herein made, and to the Regulations to be made by the Governor in Council in that behalf.

Governor in Council may authorize the manufacture of goods in bond from dutiable articles.

18. Before any person shall be entitled to carry on any such manufacture in bond, he must apply for and obtain a license so to carry on the manufacture of some certain kind or kinds of goods to be mentioned in the application and license, in some certain premises to be therein described; Every such license shall be known as a Bonded Manufacturing License, and no such license shall be granted to any party until the granting thereof has been approved by the Department of Inland Revenue, nor until he has, jointly and severally with good and sufficient sureties to the satisfaction of the Collector or some superior officer of Inland Revenue, entered into a bond to Her Majesty, Her Heirs and Successors, in the sum of four thousand dollars and in a further sum equal to the amount at which the said Collector or superior officer of Inland Revenue estimates the maximum amount of duties to be paid by such party during any two months of the time it is to remain in force; and such bond shall be taken before the said Collector or superior officer of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him, by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the party to whom the license is granted will become liable to render or pay under the provisions of this Act, and that such party will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever.

Conditions of license so to manufacture and security to be given.

19. Every such bond as aforesaid shall remain in force so long as any duty upon any articles or commodities subject to Excise, or on any license, or any penalty to which the bond relates, remains unpaid by the party to whom such license was granted.

How long such bonds under foregoing sections, shall remain in force.

20. But whenever any new license is granted to any party, a new bond shall be likewise entered into with reference to such new license.

New bond if new license.

21. And a new bond shall also be given, whenever, during the period for which any license to which the bond first given relates is in force, either of the sureties dies, becomes insolvent, or removes permanently out of Canada; and the license shall be void from the time the party to whom it was granted is required by the Collector or superior officer of Inland Revenue

New bond if surety dies, becomes insolvent, &c.

to enter into a new bond, until the time when such new bond is given, during which time the party neglecting to enter into such new bond shall be held to be without a license.

To whom the application for a license shall be made, and by whom issued.

22. Every application for a license under this Act shall be forwarded by the Collector of Inland Revenue to the District Inspector, or in the case of an application for a bonded manufacturing license, to the Department of Inland Revenue, with such information as may be required by any departmental regulation, and so soon as the said application shall be returned to the Collector, endorse with the approval of the District Inspector or of the Department of Inland Revenue, and upon the due execution of the Bond with sureties as herein required, the Collector of Inland Revenue shall issue a license to carry on the business and to use the utensils, machinery and apparatus specified in the application, and in the place or premises therein specified, and in such places or premises only, and shall immediately report the issue of such license to the Department.

Same conditions for new license.

23. Upon the expiration of every license issued under this Act, the granting of a new license in lieu thereof, shall be subject to the same restrictions and conditions as the granting of the original license was subject to.

Burden of proof of license.

24. The burden of proof that any license required by this Act has issued, shall rest upon the person to whom such license is alleged to have been issued.

DUTIES PAYABLE ON LICENSES.

On general license for distilling and rectifying by any process.

25. The party in whose favour a license is granted, for distilling and rectifying, or for either, by any process, shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of two hundred and fifty dollars.

For brewing.

26. The party in whose favour a license for brewing is granted shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of fifty dollars.

For malting.

27. The party in whose favour a license for malting is granted shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of two hundred dollars: Provided, that the Governor in Council may direct that establishments where malting may be carried on shall be divided into three classes, and may exact for the first class a sum not exceeding two hundred dollars for a license,—for the second class a sum not exceeding one hundred and fifty dollars for a license, and for the third class a sum not exceeding one hundred dollars for a license.

Proviso.

For manufacturing Tobacco.

28. The party in whose favour a license for manufacturing Tobacco is granted shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of fifty dollars each.

29. The party in whose favour a license for manufacturing in bond is granted shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of fifty dollars. For manufacturing in bond.

30. All license fees shall be due and payable at the time when the license is granted, and in no case shall the certificate of license be granted until all such fees are paid. To be paid before license issues.

DUTIES OF EXCISE.

31. In lieu and instead of all duties of Excise imposed by any Act hereby repealed on any of the articles hereinafter named or upon Beer, there shall be imposed, levied and collected on all Spirits distilled, and on all Malt and on fermented beverages made in imitation of malt liquor, and wholly or in part from any other substance than malt, and on Tobacco manufactured within the Dominion of Canada, and on goods manufactured in Bond therein, the following duties of excise which shall be paid to the Collector of Inland Revenue, as herein provided, that is to say :— Duties of Excise imposed.

2. This sub-section was amended by 31 V. c. 50, sec. 1, by imposing an additional duty, see page 400 post, but the sub-section so amended was repealed by 37 V. c. 6, sec. 11, and the following substituted: ante page 340.

“On every wine gallon of spirits of the strength of proof by Sykes Hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any less quantity than a gallon, seventy-five cents.

3. On every pound of malt, one cent ;

On Malt.

4. On every gallon of any fermented beverage made in imitation of Beer or Malt Liquor and brewed in whole or in part from any other substance than Malt, three cents and a quarter of a cent ; On beer or imitations of beer.

5. On Manufactured Tobacco there shall be imposed, levied and collected the following Duties of Excise, that is to say : Duties of excise on Manufactured Tobacco.

By 33 V. c. 9, sec. 17, three sub-sections were substituted for sub-sections 6, 7, and 8 of this Act, but the sub-sections so substituted were repealed by 37 V. c. 6, sec. 12, and the following substituted (for 33 V. c. 9, sec. 17 as altered, see page 331 ante, and for 37 V. c. 6, sec. 12 see page 340 ante) :

“6. On Cavendish Tobacco and Snuff, and on manufactured Tobacco of all kinds, except Cigars and common Canada Twist, on every pound or less quantity than a pound, twenty cents.” Cavendish, Snuff, &c.

“7. On common Canada Twist, otherwise called *tabac blanc en torquette*, being the unpressed leaf, rolled and twisted, and made wholly from raw tobacco, the growth of Canada, for every pound or less quantity than a pound, ten cents.” Canada twist

Cigars.

"8. On Cigars, for every pound or less quantity than a pound, forty cents: subject to an abatement or allowance for moisture in calculating the weight for duty, to be fixed from time to time by regulations to be made by the Governor in Council."

On goods manufactured in bond.

9. All goods manufactured in bond shall, if taken out of bond for consumption in Canada, be subject to duties of Excise equal to the duties of Customs to which they would be subject if imported from Great Britain and entered for consumption in Canada; and whenever any article not the produce of Canada, upon which a duty of Excise would be levied if produced in Canada, is taken into a Bonded Manufactory, the difference between the duty of Excise to which it would be so liable, and the Customs duty which would be levied on such article, if imported and entered for consumption, shall be paid as a duty of Excise, when it is taken into the Bonded Manufactory;

By 33 V. c. 9 sec. 18, the following proviso is added to this Sub-section (see page 332 ante):

"Provided always, that the undermentioned articles when manufactured in Bond shall, when entered for consumption in Canada, be subject to the following duties of Excise, and to no other, that is to say:—

"Vinegar, per gallon, three cents;

"Methylated Spirits, being composed of Alcohol mixed with Wood Naphtha, in such proportions, and subject to such regulations as may from time to time be made by the Treasury Board,—for every gallon of the strength of proof, and so in proportion for every greater or less strength, and for every less quantity than a gallon, twelve cents."

Commencement of duties.

10. The said Duties shall be held to have been imposed and to have been payable on and after the thirteenth day of December in the year one thousand eight hundred and sixty-seven, on all Spirits and Tobacco, distilled, manufactured or made, or taken out of bond for consumption in Canada, on or after the said day, and on all Malt held by any Brewer, Maltster, Distiller or other person on the said day, or manufactured or made thereafter; and any duty of Excise on Beer shall be held to have been repealed on all Beer manufactured or brewed on and after the said day wholly from Malt on which a duty of Excise has been paid or will be payable; but a duty of Excise of three cents per gallon shall be payable on Beer brewed or in process of brewing before the said day;

On what quantities to be levied.

11. The said duties shall accrue and be levied on the quantities made or manufactured, which may be ascertained in the manner herein provided or otherwise proved, and shall be in addition to all sums charged as license duties, whether on utensils or otherwise.

To be duties within the Management Act.

32. The said duties shall be in addition to all sums charged as license duties, and shall be duties within the meaning of the *Act respecting the Collection and Management of the Revenue.*

*the Auditing of Public Accounts, and the liability of Public Accountants,** and shall form part of the Consolidated Revenue Fund of Canada.

OBLIGATIONS OF PERSONS HOLDING LICENSES.

33. No Distiller, Maltster, Tobacco Manufacturer or Bonded Manufacturer shall work his Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, at any time, unless he has given at least six days' previous notice in writing to the Collector of Inland Revenue, of his intention to work the same at some time not less than six nor more than twenty days after the giving of such notice, but having commenced to work the same within such time he may continue to work the same uninterruptedly without new notice,—but after any interruption of work for more than one week a new notice must be given :

Notice to Collector of intention to work at any time.

2. Any use made of any still, mash-tub or fermenting-tun, for the purpose of distillation, mashing, or fermentation, shall be deemed to be a working of the distillery, and an acting as a Distiller within the meaning of this Act ;

What shall be working.

3. Any use made of any cistern, couch-frame, malt-floor or kiln for the steeping, germinating or drying of any grain, shall be a working of a malt-house, and an acting as a maltster within the meaning of this Act ;

The same as to Maltsters.

4. And if any Distiller, Maltster, Tobacco Manufacturer or Bonded Manufacturer works his Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory at any time for which he has not given notice of his intention to work the same, he shall for each day on which he so works such Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, incur the same penalty and forfeiture as if he had worked the same without a license.

Penalty for working without notice.

34. Every person licensed under this Act shall, at all times when required, supply any officer of Inland Revenue with all assistance, lights, ladders, tools, staging or other thing necessary for inspecting the premises, stock, tools, or apparatus belonging to such licensed person, or for weighing, gauging or testing any article or commodity then on the premises for which the license is granted, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels and other vessels, when required so to do by any officer of Inland Revenue.

Assistance to be afforded to officer of Inland Revenue.

35. If any person or persons, holding a license under this Act, intends to make any alteration or addition to the premises, apparatus, machinery or utensils described as herein provided, or to remove any portion of such utensils, machinery or apparatus, notice in writing shall be served on the Collector of In-

Notice of intention to alter apparatus to be given to Collector.

* This Act will be found ante page 120.

land Revenue of the intention to make such alterations, additions or removals, at least one week before they are commenced, and all such notices shall set forth fully and correctly the particulars of the proposed alterations, additions or removals.

Collector may require new list, &c., of apparatus.

Penalty for refusal.

36. The Inspector of Inland Revenue may for sufficient cause, of which sufficiency he shall be the sole judge, at any time after having given ten days' notice, require a new list and description such as are herein required in an application for a license, to be made out and furnished by any party holding a license under this Act; and any party refusing to comply with such requisition, shall incur the same penalty as is provided for carrying on any business subject to Excise without license; and every such description shall be received as evidence in all Courts of Law.

Designation of Apartments.

Inscription over entrance to premises subject to Excise.

37. There shall be conspicuously placed over the chief entrance to every place or premises subject to Excise, or where any business subject to Excise, is carried on, the name or names of the person or the name and style of the firm by whom such premises are occupied, or on whose behalf such business is carried on:

Size of letters, &c.

2. The name so placed shall be written or printed in Roman characters at least three inches in height, in white letters on a black ground;

Inscription over entrance to each separate apartment.

3. Every separate apartment, room, granary, kiln, vault or storehouse, in every place or premises, subject to Excise, or in which any business subject to Excise is carried on, or in which is placed any utensil, apparatus or machinery, used in such business, shall have over the principal entrance thereto a notice in Roman characters at least two inches in height, stating the name and designation thereof, and the purpose to which it is applied or for which it is used;

To be subject to approval of officer of Inland Revenue.

4. Every notice or written or printed designation or name of any person or persons, place or thing hereby required, shall be printed, painted, put up or affixed under and according to the direction of an officer of Inland Revenue, and at the expense of the party on whose behalf it is done.

Books, Accounts, and Papers.

Books to be kept by a distiller: and what to show.

38. Every person or party licensed as a Distiller, shall keep a book or books in a form to be furnished from time to time by the Department of Inland Revenue, which books shall be open at all seasonable hours to the inspection of the Collector of Inland Revenue or other proper officer, and wherein such Distiller shall enter, from day to day;

1st. The quantities of grain or other vegetable production, The same.
or other substance, put by him into the mash-tub or otherwise
used by him for the purpose of producing beer or wash, or con-
sumed by him in any way for the purpose of producing spirits ;

2nd. The quantity of beer or wash fermented or made by The same.
him or in his Distillery ;

3rd. The quantity of spirits by him distilled, manufactured The same.
or made ;

4th. The hours during which his stills are worked on each The same.
day.

39. Every person licensed to carry on business as a Malt- Books to be
ster, shall keep a book or books in a form to be furnished from kept by a
time to time by the Department of Inland Revenue, and to maltster, and
be open at all seasonable hours to the Collector or other proper what to show.
officer of Inland Revenue wherein such Maltster shall enter
from day to day :—

1. The quantity in *bushels* by gauge of dry grain or legu- The same.
minous seeds placed to steep or wet in any cistern or cisterns ;

2. The quantity in *bushels* by gauge, and in pounds by The same.
weight, of malt taken from the kilns ; and also such other par-
ticulars relative to quantity in the various stages of its manu-
facture as may be required by departmental regulations.

*By 37 V. c. 8, sec. 12, the word “bushels” is removed from
this section. Measurement by centals is substituted.*

40. Every distiller, maltster, tobacco manufacturer and Stock Books,
bonded manufacturer who is required to take out a license un- by any party
der this Act, or who carries on any business subject to Excise, carrying on
shall further keep such stock books and other books, and in business, sub-
such form and manner as may be ordered and prescribed by ject to Excise.
regulations approved by the Minister of Inland Revenue :

In which Stock Books there shall be clearly recorded day by What the stock
day in the prescribed columns a full and particular account of books must
all Grain, Malt, Spirits, raw and manufactured Tobacco and show.
other Stock, material or commodity brought into the Distillery,
Malt-house, Tobacco Manufactory or Bonded Manufactory to
which such Stock Books relate, and also of all Grain, Spirits,
Malt, raw or manufactured Tobacco, or other Stock, material
or commodity, sold, removed or transferred from such Distil-
lery, Malt-house, Tobacco Manufactory or Bonded Manufac-
tory ; together with such further particulars as may be required
by any departmental regulation in that behalf ; stating in every
case the name of the person from whom the same was bought or
obtained, or to whom it was sold or transferred, as the case

may be, and also the mode of conveyance by which it was brought to the Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, or by which it was carried therefrom :—and if any such Grain, Malt, Spirits, manufactured or raw Tobacco, or other stock, material or commodity has been conveyed by any vessel or railway to or from any Port, Wharf or Station, situated within a distance of ten miles from the Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, then such vessel or railway shall be named as the conveyance by which such Grain, Spirits, Malt, Tobacco, Stock, material or commodity was conveyed as aforesaid.

Books, &c., to be produced to proper officer when required.

41. Every person who is licensed to carry on any business subject to Excise under this Act, shall, when required so to do and as often as may be required by any officer of Inland Revenue, and at any time within ordinary business hours, or when any operation is being carried on within the premises licensed, produce for the inspection of any such officer,—

Officers may make entries therein.

1. All books, papers and accounts kept in accordance with the requirements of this or any other Act, or in accordance with the requirements of any Order in Council or any Departmental Regulation made under this or any other Act, in which books or accounts such officer may enter any memorandum, statement or account of quantities, and in such case he shall attest the same by his initials ;

Or take extracts therefrom.

2. All books, accounts, statements and returns whatsoever, and all partnership accounts used by any such person or by any copartners in carrying on any such licensed business, whether such books, memorandums, papers or accounts be considered private or otherwise ; and every such officer shall be permitted to take any extracts therefrom or any copies thereof :

In cases of seizure, books may be seized and removed.

3. And in case of the seizure of any article or thing in any Distillery, Malt-house, Tobacco Manufactory, or Bonded Manufactory, for contravention of this Act, the seizing officer or any superior officer of Excise, may take possession of and remove all or any books, papers or accounts kept under the requirements of this Act, or under the requirements of any Order in Council or any Departmental regulation made thereunder, and may retain the same until the seizure shall be declared valid by competent authority, or the article or thing seized or the proceeds thereof shall, by such authority, be directed to be restored.

Quantities to be stated in lbs, except fluids.

42. Except as herein otherwise provided, every quantity of grain recorded or stated in the Stock Books herein mentioned, and in all returns, descriptions and statements required to be kept or made by this Act, and the quantity of every other article or commodity, except fluids, used in or about premises subject to Excise, or entering in the manufacture of any article

or commodity subject to Excise, shall be stated in pounds avoirdupois.

2. *This sub-section was repealed by 37 V. c. 8, sec. 10, and the following substituted :—*

“2. All quantities of fluids shall be stated in the aforesaid books, re- Measuring turns, statements and descriptions, in gallons; and the quantity of any fluids by fluid in gallons shall, for all the purposes of this Act, be determined by gallons. weighing or gauging in such manner as may be, from time to time, prescribed by any Departmental regulation in that behalf.”

“3. All beams, scales, weights and measures used in or about Weights and measures. any Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, shall be inspected, tested and verified by an officer of Inland Revenue, or by an Inspector of weights and measures, as often as any Inspector of Inland Revenue or of Excise may direct.

CLAUSES HAVING SPECIAL REFERENCE TO DISTILLERIES.

Charge of Duty on Spirits.

43. The duty upon spirits shall be charged and computed as follows: How it may be computed.

1. Upon the grain used for its production at the rate of one gallon of proof spirits for every seventeen pounds;

2. Upon the quantity of beer or wash fermented or made in the Distillery at the rate of one gallon of proof spirits for every fourteen gallons of beer or wash;

3. Upon the quantity of beer or wash fermented or made, in proportion to its alcoholic value;

4. Upon the quantity of spirits which passes from the tail of the worm into the close receivers;

5. Upon the quantity of spirits sold or removed from any Distillery by the Distiller, or by his Agent, or for his account;

And that method of computation which yields the greatest amount of revenue shall in all cases be the one upon which the Distiller shall pay the duty; Method giving most duty to be taken.

Except that when any Distiller is about to use damaged grain, or mill offal, and shall give the proper officer one week's notice of his intention so to do, such officer shall specially inspect the beer or wash made from such grain or mill offal, and test its alcoholic value, and the quantity of such material which it contains, and if he reports that the yield of such damaged grain or mill offal is less than one gallon of proof spirits to seventeen Provision when damaged grain or mill offal is used.

pounds, the Minister of Inland Revenue may authorize the assessment of the duty on the highest quantity ascertained by any of the other methods, without reference to the quantity of damaged grain or mill offal used by the Distiller.

Computing
duty under
Sect. 43.

44. For the purpose of computing the duty by the methods prescribed in the next preceding section :—

On the quan-
tity of grain.

1. The quantity of grain shall be the quantity actually weighed into the mashers and recorded in the books kept under the requirements of this Act ; except that whenever the Inspector of Inland Revenue shall have cause to doubt the correctness of the quantity so entered on the said books, he may cause an enquiry to be made by any inspecting officer of Inland Revenue, who may swear and examine parties and witnesses under oath, or he may himself in like manner enquire as to the quantity of grain taken to the Distillery in which such books are kept, and as to the quantity of grain removed therefrom, and generally into the matters referred to, and shall determine as nearly as may be the actual quantity of grain consumed in the Distillery ; and the duty may be assessed and levied on the quantity of grain so determined, in the proportion of one gallon of proof spirits to every seventeen pounds of grain ;

On the quan-
tity of beer or
wash.

2. The quantity of beer or wash fermented or made in the Distillery shall be determined by the Distiller, or as often as may be directed by any departmental regulation in that behalf, by an officer of Inland Revenue, who shall gauge the quantity in the fermenting tuns at the time when the fermentation has been completed, or when the beer is in a fit state for distillation ; and the quantities so determined shall be recorded by the Distiller, or by the officer of Inland Revenue, as the case may be, in a Register of Fermentation under such regulations, as the Department of Inland Revenue may order ; Except that whenever the Inspector of Inland Revenue may have cause to doubt the correctness of the quantity entered in the said Register of Fermentation, he may enquire or cause an enquiry to be made in the manner above provided, as to the capacity of the fermenting tuns used in the Distillery, the frequency with which they have been used, and the quantity of beer or wash from time to time fermented therein ; and the duty may be assessed and collected in the proportion of one gallon of proof spirits for every fourteen gallons of beer or wash determined by such Inspecting Officer, after such enquiry, to have been fermented in the distillery ;

Inquiry in case
of doubt.

Assessing duty
according to
result.

Ascertaining
the alcoholic
value of the
beer or wash.

3. The alcoholic value of any beer or wash made in any Distillery may be determined by any Inspecting Officer of Inland Revenue, or by any Collector of Inland Revenue, who as often as he may deem it to be necessary, but not more frequently than once in each day, may take out of any beer or wash then in the Distillery, a quantity not exceeding twenty eight gallons,

as a sample, which he may distil or cause to be distilled for the purpose of any computation under this Act, and he may calculate the value or strength of the beer or wash used in that Distillery according to the result ascertained from the sample so taken; or—

He may at any time test the strength of any beer or wash then in the Distillery, by its attenuation or by running a portion thereof not exceeding the contents of any one fermenting tun, through the stills, in the ordinary course of working such Distillery, and may require the ordinary operatives of such Distillery to do the work, or may introduce other operatives into the Distillery for that purpose; and for the purpose of any such computation as aforesaid he may calculate the alcoholic value or strength of the beer or wash used in that Distillery according to the result ascertained from the portion of such beer or wash so distilled, and the alcoholic value of the beer or wash as determined by either of the above methods, may be applied to or used in the computation and charge of duty on the beer or wash made in that Distillery;

Testing the strength of the beer or wash.

4. The quantity of spirits which passes from the tail of the worm into the close receivers shall be ascertained and determined by gauging the quantity and testing the strength thereof in such manner, at such periods and by such means, as may from time to time be directed by any departmental regulation in that behalf;

Quantity of spirits passing into the close receivers.

5. The quantity of spirits sold or removed from any Distillery by the distiller shall be the quantity recorded in the Distillery Stock Books kept under the provisions of this Act:—Except that whenever the Inspector of Inland Revenue shall have cause to doubt the correctness of the quantity so recorded he may enquire or cause an enquiry to be made in the manner above provided, as to the quantity of spirits sold by the Distiller or by his agent or for his account, and as to the quantity removed from the Distillery by any agency or vehicle whatsoever, and also as to the quantity of duty paid spirits brought into the Distillery; and for the purpose of such enquiry all shipping notes or bills of lading signed by the Distiller or by his agent shall be taken as evidence of the sale or removal by him from his Distillery of the quantity therein specified, and the evidence on oath of any Railway Clerk, Station-Master or agent, or of any Warehouseman or Common Carrier or Shipping Agent, as to the truth of the accounts kept by him of shipments or removals of spirits by any Distiller, shall be sufficient evidence of the truth of such accounts; and the evidence on oath of any person who has purchased any spirits from a Distiller or from his Agent, shall be taken as evidence that the spirits so bought were manufactured at the Distillery of the Distiller selling the same, unless the contrary is shewn; and all packages of spirits not otherwise described in the accounts or shipping notes or bills

Ascertaining the quantity of spirits sold or removed from the distillery.

Inquiry in case of doubt

Computation on the result.

of lading relating thereto, or proven to contain some greater or less quantity, shall be reckoned as puncheons containing each one hundred and seventy-seven gallons of proof spirits; and the difference between the quantity shewn by such enquiry to have been sold by the Distiller or removed from his Distillery, and the quantity of duty paid spirits brought into the Distillery, shall be held to be the quantity liable to duty under this Act.

Period to which enquiries may extend: provision if more duty is found to be payable.

6. The enquiries of the Inspecting Officer or Collector of Inland Revenue, as herein provided, may be made for any period not more than one year before the time when the enquiry is commenced; and if it is found that during the said period the returns have been made for, and the duty charged on a less quantity of spirits than is ascertained and determined by the result of such enquiry, the additional duty then determined shall become due and payable within five days after the Distiller has been notified of the result of such enquiry, and the payment of such additional duty shall be enforced in the same manner and under the same conditions and penalties as the payment of the duty mentioned in the Semi-Monthly Returns;

Onus of proof that the officer is wrong.

7. If the determination of the Officer under any provision of this Act be disputed, the proof of the error or wrong shall rest with the party alleging it.

Vessels, &c., to be accurately gauged once a year.

45. On or before the tenth day of July in each year, the capacity of all spirit receivers, fermenting tuns, mash tubs, coolers and other vessels used in or about distilleries, shall be accurately ascertained by gauging or by actual measurement by standard measures of capacity, as the Officer of Excise may determine or direct; and—

List to be made:—particulars

2. A correct list thereof shall be made out, by the Distiller, in triplicate, setting forth the number, use, dimensions and capacity of every such vessel, and the said list shall be attested by the signature of the distiller, and shall be subject to the verification and approval of the officer of Excise under whose supervision the gauging or measurement was made, and when signed by him in testimony of such approval, every such list shall be received as evidence in all Courts of Law.

Proviso for correction.

Provided always, that every such list may at any time be revised by any superior officer and corrected, should any errors be found therein.

Triplicate copies and where to be kept.

3. One counterpart of such list shall be kept on record at the distillery, another at the department of Inland Revenue, and the third shall be retained by the Collector of Inland Revenue within whose district or division the distillery is situated.

46. The spirit receiver, doubler, low wines receiver, faints receiver; the safe or apparatus enclosing the tail of the worm or still,—and

Certain apparatus to be constructed according to departmental regulations.

2. Every pump used for removing any spirit, wash, or other matter to or from any vessel or from one vessel to another, and every lock, pipe, valve, duct, conduit, cock or connexion used for securing, leading to, or from, or between, or for giving access to any of the vessels herein mentioned or referred to,—and

3. Every valve, pipe, cock, gauge, pump, lock or other apparatus, utensil, appliance or arrangement for securing, gauging, ascertaining, testing or proving the quantity or strength of any spirit, wash or worts manufactured or distilled, or for preventing the undue abstraction of any such spirits, wash or worts,—shall be constructed, arranged and applied at the cost of the distiller, in accordance with such plans, designs, drawings, and regulations, and of such materials as may be from time to time approved by the Department of Inland Revenue;

4. Every mash tub, fermenting tun, spirit receiver, cooler, tank, vat or other utensil or vessel, for using which a license is required, or which is used for containing or holding any commodity subject to excise, shall have written, stamped or printed on it in white Roman characters at least two inches in height, on a black ground, the name or designation of the vessel or utensil and the contents thereof in wine gallons and in cubic inches;

Capacity of certain vessels to be marked thereon.

5. Every pipe, trough or conduit, used for the conveyance of spirits, shall be coloured a *light blue*;

Pipes and conduits to be colored.

6. Every pipe, trough or conduit, used for the conveyance of water, shall be painted or coloured *white*; and

Water.

7. Every pipe, trough or conduit for the conveyance of beer or wash shall be colored *red*.

Beer or wash.

47. On both heads of every rolling cask used in any Distillery or for keeping or delivering out any spirits, there shall at all times be legibly cut, branded, or painted in oil colours, the name of the distiller with the true contents of the cask in wine gallons.

Casks, how marked.

48. The tail of every worm in every distillery shall be enclosed in a locked or sealed "safe," or other suitable apparatus in which the strength of the spirit and low wines flowing from the worm may be approximately ascertained by the inspection of the hydrometer or other suitable instruments contained therein:

Tails of worms to be inclosed in locked safes.

Subject to approval.

2. Every such safe shall be constructed in such manner and secured by such means and by such mechanism as may be approved by the Department of Inland Revenue ;

As to communication from worm to doubler or receiver.

3. From the said closed safe or apparatus all low wines, faints and spirits, from time to time running from the end of the worm, shall be conveyed to the doubler or spirit receiver, as the case may be, through suitable pipes of such metal as may be required by departmental regulations, visible throughout the whole of their length, with stop cocks and other appliances so arranged that the liquid may be conveyed either to the doubler or to the receiver ; but so that no portion of the liquid can be abstracted or diverted from the receiver or doubler without the knowledge and consent of the proper officer.

Certain distilleries to have two receivers ; capacity of each.

49. In distilleries where the weekly production of spirits is not over six thousand gallons, two spirit receivers shall be provided, each of which shall have sufficient capacity to contain at least one week's production of spirit :

The same in large distilleries.

2. In distilleries where the weekly production of spirits exceeds six thousand gallons there shall also be two spirit receivers, each of which shall have sufficient capacity to contain at least one day's production ;

Gauging quantities of spirits produced.

3. The quantities of spirits produced shall be gauged and ascertained by the Officer of Excise at such intervals as may be directed by his inspecting Officer.

Spirit not to be removed until gauged, &c.

50. The spirit which passes from the tail of the worm to the receiver shall not be removed from the receiver until the quantity and strength thereof has been ascertained by the Collector of Inland Revenue or other officer, and then only with the consent and in the presence of the said collector or other proper officer.

Receiver to be a closed vessel and locked.

51. The spirit receiver shall be a closed vessel, and all pipes, cocks or valves communicating therewith, as well as all means of access thereto, shall be securely locked or sealed, and the key or keys shall remain in the sole possession of the Collector of Inland Revenue or other proper Officer.

No perforation allowed in receiver.

52. No vessel shall be used as a close receiver for spirits in which there has been bored or made any perforation or aperture other than those necessary for its lawful use ; and if at any time it shall be discovered that any perforation, aperture or hole has been made in such receiver, or that any such exists therein, although it may have been stopped or plugged, the existence of such perforation, aperture or hole plugged or unplugged, shall be evidence that it has been unlawfully made and used.

53. The internal diameter of every spirit receiver shall be so proportioned to the productive capacity of the distillery wherein it is placed, that the products of one day's work will measure in the receiver at least twenty-four inches in depth ;

Proportion of internal diameter to productive capacity of distillery.

2. Around, above and below every close receiver and every apparatus used for gauging or testing the strength of spirits, and every safe or apparatus used for inclosing or guarding the tail of the worm, and around and above every fermenting tun, still charger, beer pump, or spirit pump, there shall be sufficient space to admit of a full and careful examination of every such vessel or apparatus, with the contents thereof, and there shall be a sufficient light for the purpose of such inspection ;

Space for examination to be left round apparatus.

3. The beer reservoir in every distillery shall be so placed that it and every pipe, trough, hose or conduit leading into or from it may be fully seen and examined ; and no pipes, troughs, conduits or hose for the passage of any water, spirit, wash or other fluid, shall be placed near to any such beer reservoir, or so that any fluid whatever can be run into it, except within the knowledge of the officer in charge ;

Beer reservoir how placed, &c.

4. Any failure to comply with the requirements or provisions of this section, after one month's notice has been given of such default, shall be sufficient cause for cancelling any license granted to the distiller so in default, and no further license shall be granted for distilling within the premises wherein such default has occurred, until all the requirements of this and the preceding section have been fully complied with.

Penalty for non-compliance with these provisions.

54. In every distillery which is not working, all the furnace doors, worms, still heads, and doublers, with all pipes and cocks leading to or connecting with the same, shall be closed and locked or sealed in such manner as the Collector of Inland Revenue or the inspecting Officer may require or direct ; and the absence from any furnace door, still head, worm, doubler or cock, of the locks or seals herein required, shall subject the distiller in whose distillery the default has occurred, to the same penalties as he would be liable to for working without a license ; provided always, that whenever it becomes necessary to execute any repairs to any of the apparatus herein mentioned, the locks and seals may be removed by a proper Officer of Inland Revenue, to such extent as may be actually necessary for the performance of such repairs, and during the period they are actually in progress.

Certain apparatus in distillery not working to be locked up.

Proviso for repairs.

55. All safes, metres, locks or seals which are by this Act required to be used or which may be required to be used by any departmental regulation or order in Council issued by virtue of this Act, shall be supplied by the Department of Inland Revenue, under such regulations of the department as

Safes, metres, &c., how provided and paid for.

may be adopted in that behalf; but the cost thereof shall be borne and discharged by the Distiller, for whose premises or utensils they are provided.

Certain apparatus for redistilling low wines or faints to be locked or sealed.

56. In distilleries where a doubler is used or where a portion of the products of the still, commonly called *Low Wines* or faints, are passed over for redistillation, the vessels and pipes used in that process shall be locked or sealed, and shall receive the Low Wines from the safe or apparatus which encloses the tail of the worm, through metal pipes, cocks or valves properly secured by locks or seals, so as to prevent the running or removal of any liquid therefrom, except with the knowledge and concurrence of the proper officer.

CLAUSES HAVING SPECIAL REFERENCE TO MALT-HOUSES.
AND MALTING.

Measurements of grain how made, and stated.

Weight in certain cases.

57. All measurements of grain after it has been deposited in any malt-house, or of grain in process of conversion into malt, or of malt up to the time when it has been completely manufactured, gauged and placed in the malt warehouse, shall be made by gauge and shall be stated in Winchester *bushels* of the standard capacity of 2150 $\frac{424}{1000}$ cubic inches; but on the removal of any malt from a kiln, the quantity shall also be ascertained and stated in pounds.

By 37 V. c. 8, sec. 12, the word "bushels" is removed from this Section. Measurement by centals is substituted.

Shape of cisterns.

58. Every cistern shall be made with its interior truly cylindrical, or it shall be a rectangular vessel, having its bottom truly even and its sides perfectly straight and perpendicular, (but the bottom may have such an incline as is necessary for drip) or shall be of such other shape as may be approved by the Governor in Council.

Construction of couch-frames.

59. Every couch-frame shall be constructed with the sides and bottom straight and at right angles with each other, and of such strength that they will preserve their true form when the frame is filled with grain.

Space to be left round either.

60. Above and around every such cistern or couch-frame there shall be sufficient space for conveniently gauging their contents, and they shall be so placed that there shall be sufficient light for that purpose and for examining the contents.

Grain how to be deposited on malt floor.

61. The maltster shall in all cases, when required so to do by any Officer of Inland Revenue, deposit the grain in process of manufacture into malt on the malt-floor, of an equal depth over the whole surface covered, and shall make the outward edges thereof in straight lines convenient for gauging, as may be required by the officer aforesaid.

62. No grain shall be placed in any cistern to steep or wet, nor shall any malt be placed in any kiln to be dried, nor moved from any such kiln after the drying is completed, except between the hours of eight o'clock in the morning and five o'clock in the afternoon.

As to steeping or moving grain.

63. Whenever any maltster is about to place any grain or other commodity in a cistern, to be steeped for the making of malt, he shall first give the proper officer, when the malt-house is within a city or town, twenty-four hours' notice, or if not within a city or town, forty-eight hours' notice, of his intention to steep grain as aforesaid, stating in every such notice the day and hour at which he will place the grain in the cistern, the quantity of grain which he will then place in such cistern, and describing the cistern by number or otherwise, in which it is to be placed.

Notice to officer of intent to steep grain.

64. Whenever any maltster is about to place any grain or other commodity then in process of manufacture into malt, on any kiln, to be dried, or when he is about to move any dried malt from any such kiln, he shall notify the proper officer of his intention so to do, in the same manner as is provided in the next preceding section; and the notices required to be given by this and the next preceding section, shall be in writing, and in such form as may be from time to time required by departmental regulations.

Notice of intent to dry grain or move dried malt.

65. The charge of duty on malt shall be computed as follows:

Computing duty on malt.

1. The grain or other commodity when about to be placed in steep shall, after it is placed in the cistern and before being wetted, be carefully gauged by the proper officer of Inland Revenue, and the quantity so ascertained shall be immediately entered by the person who gauges it, in a book provided for that purpose, and such person shall also attest the correctness of the entry by his signature;

Gauging before wetting.

2. The proper officer shall also gauge the grain or other commodity while in the cistern after it has been wetted, while in the couch-frame and while on the malt-floor, and also at such other periods during its manufacture as may be directed by departmental regulation, and the results of such gauging shall be entered in the book provided for that purpose by the person who gauges the quantities and shall be used for computing the quantity of malt manufactured as herein provided;

After wetting

3. The quantity of malt taken from the kiln after it has been dried, and the process of manufacture completed shall be gauged and weighed by or in the presence of the proper officer of Excise, and the quantity so ascertained shall be immediately entered in the book or books provided for that purpose, both in

Gauging and weighing malt when dried.

pounds and in *bushels*, by the person who gauges it, who shall attest every such entry by his signature.

By 37 V. c. 8, sec. 12, page 414 post, the word bushels is removed from this section. Measurement by centals is substituted.

Basis of calculation for comparing results of gauging and computations.

66. In comparing the results of the gaugings and computations made, as herein provided, the following proportions shall form the basis of calculation :

1. One hundred *bushels* by gauge of dry barley shall be held to be equivalent to one hundred and seven *bushels* by gauge of dry malt;

2. Eighty-one and a half *bushels* by gauge of dry barley shall be held to be equivalent to one hundred *bushels* (by gauge) of barley properly saturated with water for the purpose of malting ;

3. One hundred *bushels* gauged in the cistern, after the saturation is completed, or in the couch-frame, shall be held to be equal to one hundred and sixty-three *bushels* gauged on the floor ;

4. One hundred *bushels* gauged in the cistern, after saturation is completed, or in the couch-frame, shall be held to be equal to eighty-one and a half *bushels* by gauge of malt ;

And so in proportion for every greater or less quantity ;

Mode of calculating duty.

5. The principal gauge whereby the duty shall be computed, shall be that of the malt on its removal from the kiln ; but whenever the quantity computed from any other gauging or series of gaugings is greater than the final gauge of the malt, then that computation which yields the largest quantity shall be the quantity for duty ; and whenever the difference between the results of any two sets of guagings taken as aforesaid, exceeds seven per cent., the return of the quantity of grain placed in steep shall be deemed to have been a fraudulent return, and the Maltster shall be liable to all the penalties for making fraudulent or false returns ;

Weight of dry malt equivalent to a bushel.

6. Whenever any quantity of dry malt stated *bushels* by gauge, is to be stated by an equivalent weight in pounds, without actually weighing it, the computation shall be made by reckoning thirty-six pounds as equal to one *bushel* by gauge ; but the weight of all malt, when it is charged with duty and placed in the malt-warehouse, shall be determined by weighing it.

By 37 V. c. 8, sec. 12, page 414 post, the words "bushel" and "bushels" are removed from this section. Measurement by centals is substituted.

67. If at any time any doubt or question arises as to the manner of determining the quantity of malt liable to duty under this Act, such doubt or question shall be decided and determined by the Minister of Inland Revenue, whose decision shall be final and conclusive. Doubts how decided.

68. So soon as any malt is dried and ready for removal from the kiln, and the required notice of such removal duly given, the said malt shall be removed to the malt-warehouse, and shall be then stored under the locks of the owner thereof, and the locks of the Crown, until the duty thereon has been paid. Removing dried malt.

69. For the storage of malt on which the duty has not been paid, every Maltster shall, at his own charge, provide a suitable warehouse, subject to the survey of the proper officer of Inland Revenue, and every entrance to such warehouse, as well as every window or other mode of access thereto, shall be secured to the satisfaction of such Surveying Officer, and also to the satisfaction of the Inspecting Officers. Storage of malt until duty is paid.

70. Every principal entrance to a malt-warehouse shall be secured by two locks, one of which shall be supplied by the Department of Inland Revenue, and the key thereof shall be kept by the Officer of Inland Revenue, the other lock shall be provided by the owner; all other entrances shall be secured on the inside; and every such malt-house shall be fitted up with such convenient bins or other compartments for storing the malt as may be required by the officer of Inland Revenue, so that it may at any time be gauged and the stock taken. Securing malt warehouses.

71. Whenever any Maltster ceases from working his malt-house, the doors, windows and all other means of access thereto, shall be closed and secured to the satisfaction of the proper officer of Inland Revenue, and the principal entrance shall be secured by a Crown's lock, the key whereof shall remain in the possession of the Collector of Inland Revenue, and the malt-house shall remain so closed and secured until the Maltster gives the required notice of his intention to resume working: Provided always, that the Collector of Inland Revenue may, in his discretion, remove the locks while repairs are necessarily and actually in progress. The same as to malt-houses
Proviso.

72. The duty herein imposed upon malt shall be finally computed and charged when it is removed from the kiln, and an account thereof shall then be entered in the stock books kept under this Act, which shall be balanced on the first day of each half month for the half month next preceding that day, but the duty shall be collected whenever any malt is taken from the malt-warehouse for consumption or for removal; and the duty shall in all cases be collected on the full quantity of malt entered on the warehouse books as having been placed in such Final computation of duty

warehouse, notwithstanding any deficiency that may arise or be discovered during its delivery or removal therefrom.

Account to be kept in any required form.

73. An account shall also be kept in such other form as may be required by departmental regulation, of all malt placed in the malt-warehouse, and of all malt removed therefrom; and the account shall be taken and recorded at the time of placing such malt in the malt-warehouse, and at the time of removing it therefrom, in a book or books to be kept for that purpose, in such form as may be required by any departmental regulation made in that behalf.

CLAUSES HAVING SPECIAL REFERENCE TO TOBACCO MANUFACTORIES.

Packages included in return and on which duty has been paid or secured, to be stamped by Collector.

74. Every package of raw and manufactured tobacco imported into Canada shall be stamped at the port where it enters the Dominion, and every package, box, case, jar, canister, or parcel of tobacco manufactured in Canada and included in any return made to the Collector of Inland Revenue under the requirements of this Act, and upon which the duty has been paid or secured to the Collector by the party making such return, shall be forthwith stamped, by the Collector, in accordance with such regulations as may be from time to time adopted by the Minister of Inland Revenue, and it shall be the duty of every Collector of Customs or Inland Revenue, as the case may be, to stamp, in the manner required, all packages, boxes or parcels upon which he has received duty, or upon which the duty has been secured :

Empty packages with stamps not allowed in tobacco manufactories.

2. No empty or partly filled package, box, jar, canister, barrel or bag of a description such as is used for packing tobacco, cigars or snuff, and having attached to it any stamp or part of a stamp, whether such stamp has been defaced or not, shall be brought into, or remain in any tobacco manufactory.

Forfeiture of packages unstamped.

75. Any package of tobacco which shall be exposed or offered for sale or be found in the market without being or having been sealed, stamped, labelled or marked as herein required, shall be deemed to be tobacco unlawfully in the market.

Manufacturer to provide means of weighing and stamping, &c.

76. Every manufacturer of tobacco shall provide for the use of the Collector of Inland Revenue, all necessary means, tools and apparatus for weighing and stamping the products of his manufactory (except dies or stamps), and also a convenient place wherein such process of stamping may be performed.

TIME AND FORM OF RETURNS AND PAYMENT OF DUTIES.

Month divided into two parts.

77. For the purposes of this Act, every month in each year shall be divided into the first and second half of the month :—

2. The first half shall be from the first to the fifteenth day of each month, both inclusive, and

3. The second half shall be from the sixteenth to the last day of each month, both inclusive.

78. All returns, unless when otherwise provided by this Act, shall be made distinct and separate for each half of every month. Returns for each half month.

79. All returns as to quantities required to be made by this Act, shall be made on the first and sixteenth days of each month for the half month next preceding such days. Time for making returns.

“And the duty exigible on any article made during any half month shall be computed at the rate of duty to which it is or may be liable on the day upon which the return respecting it is required to be made; and no excisable article shall be removed from the place in which it is made until an account of it has been included in the return herein mentioned, unless such removal is permitted by some general regulation made by the Department of Inland Revenue in that behalf.”

The above section was amended by 37 V. c. 8, sec. 11, page 414 post, by adding thereto the words above printed in small type.

80. Every person carrying on any business subject to Excise shall render to the Collector of Inland Revenue, or other officer whose duty it is to receive the same, a just and true account in writing extracted from the books kept as herein provided; Accounts to be presented to Collector and what to show.

Which account as to distilleries shall exhibit:—

As to distilleries.

1. The quantity of spirits produced according to each gauge and test taken during the preceding half month, with the strength thereof; and in a separate column, the equivalent quantity of spirits of the strength of proof;

2. The quantity of grain, malt, spirits, beer or wash or other commodity brought into the distillery during the preceding half month;

3. The quantity of each kind of grain or other commodity or substance used in the distillery, in the manufacturing of spirits during the said preceding half month;

4. The quantity of grain malted;

5. The quantity of grain, malt or other commodity, removed from the distillery or disposed of otherwise than for distillation during the preceding half month;

6. The quantity of spirits sold or removed from the distillery during the preceding half month;

7. The number and denomination of packages, and the quantity in each, of spirits received into the distillery during the preceding half month other than that manufactured therein ;

8. The quantity of beer or wash made and set to ferment on each day of the preceding half month ;

9. The quantity of beer or wash fermented and distilled on each day of the preceding half month ;

10. The quantity of spirits entered for warehouse or,—

11. Entered ex-warehouse during the preceding half month ;

As to malt-houses.

And as to malt-houses such account shall exhibit :—

1. The quantity of grain, malt, leguminous seeds or other commodity brought into the Malt-house during the preceding half month ;

2. The quantity of grain or other commodity placed in steep or wetted or used for malting on each day during the preceding half month ;

3. The quantity of malt in *bushels* and pounds malted or made and removed from the kiln on each day during the preceding half month ;

By 37 V. c. 8 sec. 12, page 414 post, the word “bushels” is removed from this section. Measurement by centals is substituted.

4. The quantity of grain or other commodity removed from the malt-house or disposed of otherwise than for the production of malt, during the preceding half month ;

As to breweries.

And as to Breweries such account shall exhibit :—

1. The quantity of malt and of each description of vegetable or saccharine matter used in the brewery ;

2. The quantity of beer or other fermented liquor made in the brewery ;

As to tobacco manufactories.

And as to tobacco manufactories, such account shall exhibit ;—

1. The quantity of raw tobacco and of all other material used in the manufacture of tobacco, brought into the manufactory during the preceding half month ;

2. The quantity of all raw tobacco and other material removed from the manufactory or disposed of otherwise than for

the production of manufactured tobacco during the preceding half month ;—

3. The quantity of raw tobacco and the quantity of all other material used in the manufacture of tobacco during the preceding half month in the manufactory to which such return relates ;

4. The quantity of each description of tobacco, snuff or cigars manufactured in such manufactory during the preceding half month, shewing the number of packages, the description and the weight and quantity of each package, or the weight in bulk ;

5. The quantity of unmanufactured and manufactured tobacco on hand.

And as to bonded manufactories such account shall exhibit : As to bonded manufactories.

1. The quantity of each description of article or commodity brought into the manufactory to which the account relates, on each day during the preceding half month ;

2. The quantity of each description of article or commodity used in the production of the manufactured articles made in the manufactory on each day during the preceding half month ;

3. The quantity of each description of article or commodity removed from the manufactory or disposed of otherwise than for the production of the articles therein manufactured or made during the preceding half month ;

4. The quantity of each description of manufactured article or commodity made or produced on each day during the preceding half month.

81. Every such statement shall be made for and relate to the half month next preceding the day on which it is made. To be made for each half month.

82. Every account or return rendered as herein provided, shall be made and signed by the person carrying on the business to which it relates or his agent, and shall also be signed by the foreman, clerk, chief workman or other person employed in or about the premises where the business is carried on ; and the Collector or any superior officer of Inland Revenue may, at any time after the making of such account or return, require any other person employed about such premises, who, in his opinion, may be best acquainted with the amount of goods produced, subject to Excise, to testify upon oath before him as to the correctness of such account or return. How to be attested. Further attestation may be required.

83. Every such account or statement shall be attested by the persons signing the same by the following oath : Form of attestation.

"I, _____, do solemnly swear that the account above written, to which I have also subscribed my name, is true according to its purport: So help me God."

fore whom
be attested.

84. Every such oath shall be made before some Collector of Inland Revenue or other officer of Inland Revenue, and the Collector or officer, before whom it is made, or any Superior Officer of Inland Revenue, may, when the account or statement is made or at any time thereafter, put to the person or persons making it such questions as are necessary to the elucidation and full understanding of the account, and for ascertaining whether such person has had the means of knowing the same to be correct; And the Collector or officer aforesaid may also, when the account or statement is made or at any time thereafter, examine under oath any other person or persons employed, or who may at any time have been employed in or about the distillery, malt-house, tobacco manufactory, or bonded manufactory, to which such account relates, or any person doing business therewith, or selling material thereto, or buying goods therefrom, and also any common carrier, agent, clerk or other person who has been concerned in the removal of any such goods or material to or from any distillery, malt-house, tobacco manufactory, or bonded manufactory, or in taking or keeping an account of such removals, as to the truth of all such statements, and may reject all such written statements as may be shewn by such evidence to be incorrect or unreliable, and such rejection shall render the party making the return liable to the same penalty as he would be liable to if no return whatever had been made.

Officer may
examine cer-
tain persons
on oath.

Mode of
giving notices,
delivering re-
turns, &c.

85. All notices, lists, descriptions, returns, statements, accounts and reports required by this Act to be given or made to any person or officer, shall be held to be validly so given or made, if they be received by such person or officer, as the case may be, or if they are left at the usual place of residence of such officer or person, within the period or delay fixed herein in that behalf, without any reference to the mode by which such notice, list, description, account, statements or return was conveyed to such person or officer; and the onus of proof that all such notices, lists, descriptions, returns, accounts, statements and reports have been given or made as herein required shall lie upon the person whose duty it is to give or make them.

When the
duties shall be
payable.

86. The several duties imposed by this Act shall be due and payable on the sixth and twenty-first of each month, for the quantities of each article or commodity produced or manufactured during the preceding half month respectively, unless another time of payment is herein expressly fixed.

Calculation
of duty, and
correction of
such calcu-
lation.

87. The amount of duty shall be calculated on the measurements, weights, accounts, statements and returns, taken kept or made as herein provided, subject to correction and approval by

the Collector of Inland Revenue or other officer duly authorized thereto; and when two or more methods for determining quantities or the amount of duty to be paid are provided for, that method which yields the largest quantity or the greatest amount of duty shall be the standard; but if the Collector of Inland Revenue or any superior officer has any reason to doubt the correctness of any statement, account or return, he shall compute the weights, measurements or quantities himself, and levy the duty accordingly; and such computation may be based on any reliable evidence respecting the quantity of material brought into the distillery, malt-house, tobacco manufactory or bonded manufactory, or as to the quantity of the manufactured article removed therefrom, or as to the quantity or strength of any articles used in any of the processes of manufacture; and if the result is disputed, the proof of the error or wrong shall rest with the party who is liable for the payment of the duty.

If the Collector doubts the correctness of any statement, &c.

BONDING OR WAREHOUSING.

88. Spirits, Malt and Tobacco subject to duty under this Act, may be deposited in any suitable warehouse without payment of the duty hereby imposed, subject to the following regulations, and to such other regulations as the Governor in Council may make.

Goods subject to Excise duty may be warehoused under regulations.

89. The warehouse shall be provided by the owner of the goods, and shall be in conformity with such departmental regulations as may be from time to time made in that behalf, and upon being surveyed and approved as to security by the Inspecting Officer, shall be secured under the joint locks of the Crown and the proprietor or owner of the goods warehoused.

Warehouse to be provided by owner of goods, and approved.

90. All goods warehoused shall be at the risk of the owner, and if destroyed, or wasted, through the neglect of the owner, the duty shall be payable thereon as if they were entered for consumption.

Goods to be at owner's risk.

91. Bonds shall be taken for twice the amount of duties accruing on the goods.

Amount of bonds.

92. No less quantity of goods shall be removed from the warehouse at any one time than is contained in one package nor than is subject to the payment of twenty dollars Excise duty.

Not less than one package to be removed.

93. No goods shall remain warehoused for a longer period than two years, and at the end of that time the full amount of duty remaining unpaid shall be collected.

Period of warehousing limited.

94. At the time of entering the goods for warehouse, the amount of duty shall be computed and ascertained and stated in the entry.

Duty to be stated in entry.

Transfer of
goods in
warehouse.

95. Except as herein otherwise provided as to malt, goods warehoused under this Act may be transferred in bond from one party to another, and may be exported, ex-warehoused or removed from one warehouse to another, without payment of duty, under such restrictions and regulations as the Governor in Council may deem necessary.

Quantity,
value and
packages to be
described.

96. When goods are entered for warehouse, the entry shall state the exact quantity and value of goods in each package or parcel, and each package shall be described in the entry paper, and shall also be designated by a distinguishing number.

Packages to
be marked.

97. Each package warehoused shall be marked with the entry number, with the date when warehoused, and with the quantity which the package contains.

Stowage of
casks.

98. All casks of spirits shall be arranged and stowed in the warehouse so that access may be easily had to each cask, and so that the marks and numbers thereon may be conveniently read or ascertained.

Access to be
provided for.

99. All boxes, caddies, or packages of tobacco shall be arranged and stowed in warehouse so that access may be easily had to each package, and so that the stamps or other marks thereon may be easily read.

Goods in
several entries
not to be
mixed.

100. Goods warehoused shall be so stowed or arranged that the casks, boxes or packages contained or described in one entry are placed together in separate lots; and in no case shall the casks, boxes or packages contained or described in one entry, be intermixed with those contained or described in another.

To be re-
marked and
re-stowed in
certain cases.

101. Whenever the marks or numbers on any goods in warehouse have been omitted, or have been defaced or otherwise become illegible, or whenever such goods are not stowed or arranged in compliance with the requirements of this Act, the owner of such goods shall, on being required so to do, immediately re-mark or arrange or stow them, as the case may be, to the satisfaction of the Collector of Inland Revenue, or of any officer inspecting the division; and if the owner of such goods fails to remark, arrange or stow them in the manner herein required, for the space of one week after having been required so to do, all such goods shall be forthwith entered for duty ex-warehouse, and the duty thereon collected in accordance with the original warehouse entry.

Duty to be
paid on goods
taken out.

102. No goods shall be removed from warehouse for consumption unless upon the payment of the full amount of duty accruing thereon; and the duty so paid on spirits, malt or tobacco so taken out of warehouse for consumption or which shall have directly gone into consumption, shall not be refunded

by way of drawback or otherwise upon the exportation of such spirits, malt or tobacco out of Canada.

103. Except as herein otherwise provided the Collector or other officer of Inland Revenue or Customs in whose charge goods warehoused under this or any other Act relating to warehousing may be placed, shall refuse all entries ex-warehouse until the owner of such goods or his agent shall have complied with all conditions in respect thereto, which may be required by this or any other Act, or by any regulations made by virtue of this or any other Act.

Entries to be refused until the requirements of this Act are complied with.

104. Any person licensed to manufacture in bond may receive into the place for which his license is granted, as into a Bonded Warehouse, and except as is herein otherwise provided without payment of the duty thereon, all such spirits and other articles as are commonly used in the manufacture of the goods for which the license is granted, on a permit for that purpose to be granted by the Collector of Inland Revenue, in such form and on such bond being entered into and on such conditions as shall be prescribed in any Order in Council or departmental regulation in that behalf; but no less quantity of such spirits or other article shall be so received at any one time than might be taken out of bond for consumption.

Dutiable articles used for manufacture in bond may be received by persons so licensed as into a warehouse.

105. The goods so manufactured in bond shall remain in the place for which the license was granted, in like manner and subject to the like restrictions and to the supervision of the officers of Inland Revenue, as by law provided with respect to other goods manufactured in Canada and subject to Excise,—and the duty thereon shall be paid in like manner within five days of the close of every half month, unless such goods are then exported or warehoused, as they may be, in the manner provided with respect to other goods subject to Excise.

Payment of duties on goods manufactured, &c.

Unless exported or warehoused.

106. Whenever the Collector of Inland Revenue is satisfied that the quantity of goods manufactured in bond by any person licensed to manufacture in bond as herein provided, and on which the duty has been paid or which have been warehoused or entered for exportation, is such that the quantity of spirits or other article received by such person under any permit granted as aforesaid must have been consumed in the manufacture of such goods, then such Collector shall give a certificate thereof to such person, who shall thereby be discharged from any obligation to pay the duty on such spirits or article;—but if the spirits or other article for which any such permit has been given, remain in the place to which such permit relates longer than six months without such certificate being granted in respect thereof, then such person shall make an ex-warehouse entry, and pay the duty on so much of such spirits or article as shall not be certified to have been so consumed, and such duty shall

Cancelling bond for dutiable articles received, on certain conditions.

Proviso, if not used within six months.

be held to be a duty of Excise, and collected and accounted for as such.

Forms to be directed by the department.

107. All entry papers, either for warehouse, ex-warehouse or for removal, shall be made in such forms, and shall be attested by such affidavits, affirmations or declarations, as the Department of Inland Revenue may order.

As to malt warehoused.

108. Malt placed in a malt-warehouse, as herein provided, shall be deemed to be warehoused within the meaning of this Act; but no such malt shall be transferred from one party to another in bond, or removed in bond from one warehouse to another, unless it be otherwise provided by regulation.

Drawback on Beer exported.

109. Any licensed brewer who shall export any beer or malt liquor, of his own manufacture, shall be entitled to receive a drawback thereon equivalent to the duty herein imposed on the malt contained in the beer so exported, and the amount of such drawback shall be in proportion to the strength of the beer, and shall be computed in such manner and by such means as may be from time to time directed by departmental regulations in that behalf: But—

Notice of intent to export must have been given.

2 No such drawback shall be allowed or paid unless the brewer claiming it shall have given at least two days' notice of his intention to export the beer on which it is claimed, and made such declaration as to the strength thereof as may be required by departmental regulations in that behalf, nor unless the beer shall have been duly inspected and certified by a proper officer of Inland Revenue.

PERMITS.

Conditions on which only spirits may be removed.

110. No spirits shall be removed from *the* distillery wherein they have been manufactured, nor from any warehouse in which they have been bonded or stored, until the duty on such spirits has been paid or secured by bond in the manner by law required, nor until a permit for such removal has been granted in such form and by such authority as the Governor in Council may from time to time direct and determine, and any spirits removed from such distillery or warehouse before the duty thereon has been so paid or secured, or before such permit has been granted, shall be seized and detained by any officer of Inland Revenue having a knowledge of the fact, and shall be and remain forfeited to the Crown.

Forfeiture for illegal removal.

By 31 V. c. 51, sec. 11, this section was amended by substituting the word "any" for the word "the" in the first line and striking out the words "wherein they have been manufactured" in the first and second lines (see page 408 post.)

111. Any officer of Inland Revenue, or Customs, or any Constable or Peace Officer, having general authority therefor from any superior Officer of Inland Revenue, may stop and detain any person or vehicle carrying packages of any kind containing spirits, and may examine such spirits and require the production of a permit authorizing the removal thereof, and if such permit is produced, the Officer shall endorse the time and place of examination thereon; but if no such permit is produced, then such spirits, if the quantity thereof be greater than five gallons, and such officer has cause to believe that they have been unlawfully removed, may be detained until evidence to his satisfaction be adduced that such spirits were being lawfully removed, and that the duty thereon had been paid, and if such evidence be not adduced within thirty days, the spirits so detained shall be forfeited to the Crown.

Power to detain persons removing spirits unlawfully

Forfeiture if no permit.

112. Spirits shall not be removed from any distillery between the hours of six o'clock in the afternoon and seven o'clock in the following morning; nor shall any spirits be removed from a distillery at any time in casks or packages containing less than forty wine gallons each; any spirits removed in contravention of this section shall be forfeited to the Crown, and shall be seized by any Officer of Inland Revenue having a knowledge thereof, and dealt with accordingly.

Hours and conditions of removal.

Forfeiture for contravention

REGULATIONS BY ORDER IN COUNCIL.

113. The Governor in Council may make such Regulations as to him may seem necessary for the warehousing of Spirits, Malt or Tobacco, or for dispensing with the prohibition to the removal or transfer of Malt in bond, under this Act, or for giving effect to any of the provisions of this Act, and declaring the true intent thereof in any case of doubt, as to him shall seem meet.

Governor in Council may make regulations for warehousing.

114. The Governor in Council may from time to time make such regulations as to him may seem necessary for carrying into effect and enforcing the provisions of this Act respecting the manufacture of goods in bond, or the warehousing of such goods when manufactured, and for declaring the true intent and meaning of such provisions in any case of doubt, and for declaring how far any of the provisions of this Act shall be modified in their application to the manufacture of goods in bond and matters thereunto relating, or for substituting other provisions of the like nature in the place of any of them which cannot in his opinion conveniently be so applied; and may by such regulations require any bond or any oath or affirmation which he shall deem requisite for the purposes aforesaid, and may for breach of such regulations impose any penalty not exceeding five hundred dollars in any case, or the forfeiture of the goods or articles or things in respect of which they shall have been violated; And every such regulation may, by the Governor in Council, be repealed, amended or re-enacted.

And for carrying out this Act.

May require bonds, impose penalties, &c.

Regulations may be repealed, amended, &c.

Publication
and legal effect
of Regula-
tions.

115. All Regulations, whether Departmental or made by Order in Council, made under the provisions of this Act, shall have the force of law, and any infraction, breach or violation of any such regulation, shall subject the holder of a license under this Act, or any other person in the said Regulations mentioned, to such penalty or forfeiture as may by the said regulations be imposed for such offence, and the same shall be enforced in like manner as other penalties and forfeitures imposed by this Act.

OFFICERS OF EXCISE, THEIR POWERS AND DUTIES.

Powers of officers of Inland Revenue and Excise.

116. The Commissioner of Inland Revenue or other person acting as Deputy Head of the Department, and every Inspecting Officer of Inland Revenue, or Inspector of Excise, shall have and may exercise in each and every Revenue Division all the powers and rights conferred by this Act on the Collectors of Inland Revenue.

Who shall be such officers.

117. The Inspector of Inland Revenue, and every person appointed under this Act, or employed for the purposes of this Act, or upon whom any duty is imposed by this Act, shall be known as an officer of Inland Revenue ; but,—

Collectors of Inland Revenue.

118. Every Officer of Inland Revenue who is appointed to collect the duties hereby imposed in any defined district or revenue division shall be specially designated as a "Collector of Inland Revenue ; and any officer who is employed or appointed to the survey of manufactures, operations or premises subject to Excise, may also be designated as an "Officer of Excise."

Officers of Excise.

Not to deal in goods subject to Excise.

119. No Officer of Inland Revenue shall directly or indirectly deal or trade in any goods or commodities subject to excise or customs duties.

Power to administer oaths.

120. Every superior and Inspecting Officer, and every Collector of Inland Revenue, with such other officers as may from time to time be designated by the Governor in Council, are hereby empowered and authorized to administer all oaths and receive all declarations required or authorized by this Act.

Power of officers.

121. Every officer of Inland Revenue is hereby empowered and authorized :—

Entry into places where business subject to Excise is carried on.

1. With any assistants acting under him and by his directions, at all times, as well by night as by day, to enter into and remain in, as long as he may deem necessary, any building or place belonging to or used by any person or persons for the purpose of carrying on any trade or business subject to Excise, or in which are any machinery, utensils or apparatus, subject to Excise, or which may be used in the manufacture of goods subject to Excise ;

2. With any assistants acting under him and by his directions, to inspect any such building or place, and to take such account as he may deem necessary of every part thereof and of all works, vessels, utensils, goods and materials, machinery and apparatus, belonging or in any wise appertaining to such business;

Inspecting
apparatus, &c.

3. To break up or cause to be broken up or removed any floor, wall, partition, ceiling, roof, door or other part of such building, place or premises, or any ground surrounding them, for the purpose of ascertaining whether there is any pipe, worm, still, conduit, tool, vessel, utensil, machinery or apparatus, or any stock, goods, commodity, or article subject to Excise concealed or kept out of view;

Breaking par-
titions, &c., to
discover hid-
den apparatus.

4. To examine the worm of any still or other apparatus used by any Distiller or Bonded Manufacturer, by causing the water to be drawn off from the worm tub or refrigerator containing such worm, at any time when in the opinion of such officer the doing so will not be prejudicial to the working of such still or other apparatus; or when he may deem it to be necessary to do so for the prevention or detection of fraud;

Examining
worms of
stills, &c.

5. To gauge, measure, weigh, prove, mark, label, stamp, lock, seal or otherwise designate or secure any fermenting-tun, mash-tub, cistern, kiln, worm, still, spirit-receiver, pipe, cock, vessel or apparatus, furnace door, machinery or utensil, or any goods, article or commodity subject to Excise, and to close, seal and secure all or any such worms, stills, fermenting-tuns, mash-tubs, furnace doors and utensils, during the period when the said distillery, malt-house, tobacco manufactory or bonded manufactory is not at work;

Gauging ves-
sels, &c.

Closing and
sealing ves-
sels, &c.

6. To take at any time that he shall see fit, a sample or samples of any tobacco, snuff or cigars unmanufactured or in process of manufacture, or manufactured, in the stock or possession of any manufacturer of tobacco, paying for the same if demanded, at the current wholesale price of such tobacco, snuff or cigars;

Taking sam-
ples of tobac-
co manufac-
tured, at
wholesale
price.

7. To take from any distillery a sample of beer or wash, or to work the distillery as herein provided.

Taking sam-
ples of beer
or wash.

122. If any officer of Inland Revenue with any assistants acting under him and by his directions, after having demanded admittance into any distillery, malt-house, tobacco manufactory, or bonded manufactory, or into the premises of a distiller, maltster, tobacco manufacturer, or bonded manufacturer, or into any place or premises subject to Excise, and having declared his name and business at the gate or entrance door or at any window or door of any such distillery, malt-house, manufactory or place, or at the door, window or gate of any building

Power of offi-
cers to enter
into premises
subject to Ex-
cise.

By day or
night.

or place forming part thereof, be not immediately admitted into such distillery, malt-house, manufactory or other premises, it shall be lawful for such officer and any person acting in his aid, at all times as well by night as by day (but if by night then in the presence of a Constable or other Peace Officer), to break through any of the doors, windows or walls of such distillery, malt-house, tobacco manufactory, bonded manufactory, or other premises necessary to be broken open or through to enable him and them to enter the said distillery, malt-house, manufactory or other premises aforesaid.

Power to ob-
tain Search
Warrant and
make Search.

123. The Collector or other proper officer of Inland Revenue or any person or persons acting under him or by his directions respectively, having first obtained a Search Warrant for that purpose from some Justice of the Peace, who may grant the same on affidavit made before him and to his satisfaction, and stating reasonable grounds for the issuing thereof, may, at any hour between sun-rise and sun-set, enter into and search any house, building or place mentioned in such Search Warrant, as being one in which affidavit has been made of reasonable cause to suppose that an unlicensed still, worm, mash-tub, cooler, fermenting-tun, malt floor or kiln, press, cutting knife, mill or other vessel or implement is illegally in use, or the provisions of this Act otherwise contravened.

License may
be suspended
for certain
contraventions
of this Act.

124. The Minister of Inland Revenue may lawfully suspend or revoke the license of a distiller, maltster, tobacco manufacturer or bonded manufacturer, who shall delay, obstruct or prevent, or whose agent or servants shall delay, obstruct or prevent any officer or his assistant in or from entering into a distillery, rectifying house, malt-house, tobacco manufactory or bonded manufactory, or any house, out-house, store or other place whatsoever of such distiller, maltster, tobacco manufacturer, or bonded manufacturer, or in or from otherwise performing his duty in the execution of any Act relating to the Inland Revenue.

Writ of Assis-
tance may be
granted, and
by whom.

125. Any Judge of the Court of Queen's Bench or of the Common Pleas in the Province of Ontario, or of the Superior Court or of the Court of Vice Admiralty in the Province of Quebec, or of the Supreme Court in Nova Scotia or of the Court of Queen's Bench in New Brunswick, having jurisdiction in the place where the application is made, shall grant a Writ of Assistance upon application made to him for that purpose by the Collector of Inland Revenue or any superior officer of Inland Revenue, or by Her Majesty's Attorney-General for Canada, and such Writ of Assistance, when issued, shall be in force during the whole of the Reign in which the same shall have been granted, and for twelve months from the conclusion of such Reign :

How long to
remain in force

Powers of
Officers of

2. Under authority of a Writ of Assistance so granted, any

officer of Inland Revenue, or any person employed for that purpose with the concurrence of the Governor in Council, expressed either by special order or appointment or by general regulation, may enter in the night time if accompanied by Peace Officer and in the day time without being so accompanied, any building or other place within the jurisdiction of the Court granting such Writ, and may search for and seize and secure any goods or things liable to forfeiture under this Act, and, in case of necessity, may break open any entrance or other doors, windows or gates and any chests or other packages for that purpose.

Excise under such writ.

Entry and search.

126. All Justices of the Peace, Mayors, Bailiffs, Constables and all persons, serving under Her Majesty by commission, warrant or otherwise, and all other persons whosoever, shall aid and assist, and they are hereby respectively required to aid and assist every officer of Inland Revenue in the due execution of any act or thing authorized, required or enjoined by this or any other Act.

Justices of the Peace and others, to assist on being required.

PENALTIES.

127. Any person who, after the passing of this Act, and without having a license under it then in force, shall—

Penalty for exercising any business subject to excise without license.

1. Distil or rectify any spirits ;—or

2. Make any malt or steep any grain for the purpose of malting ;—or

3. Brew any beer or any fermented liquor except for the use of himself or family ;—or

4. Manufacture or prepare for sale or consumption any tobacco or snuff, except tobacco grown by himself and manufactured by him for his own private use ;—or

5. Who claiming to have grown any tobacco, and manufactured it solely for his own use, shall sell or barter away any tobacco so manufactured ;

Shall forfeit and pay a penalty of two hundred dollars.

128. Any person who shall become subject to the penalty provided for in the next preceding section, shall in addition thereto, forfeit and pay for the use of Her Majesty double the amount of excise duty and license duty which should have been paid by him under this Act.

Additional penalty.

129. All grain, malt, raw tobacco and all other material or stock, and all engines, machinery, utensils, worms, stills, mash-tubs, fermenting-tuns, tobacco presses or knives, and all spirits, malt, tobacco, snuff, cigars and other manufactured

Apparatus and goods found in any place for which no license is

taken to be
forfeited.

articles, whether completely or partly manufactured which may at any time be found in any distillery, malt-house, brewery, tobacco manufactory, bonded manufactory, or other premises or place where any thing is being done or any working carried on which is subject to Excise and for which a license is required under this Act, but in respect of which no such license has been taken out, shall be seized by any officer of Inland Revenue having a knowledge thereof, and shall be and remain forfeited to the Crown.

Penalty on
persons hav-
ing in their
possession ap-
paratus for
carrying on
business
subject to
Excise without
having made
a return
thereof.

130. Every person, who shall have in his or her possession any still, worm, mash-tub, fermenting tun, malt-floor, malt-kiln, or any distilling, rectifying, brewing or malting apparatus, or any tobacco press or mill for cutting or grinding tobacco, or any machinery adapted to be used in manufacturing tobacco, without having made a full and particular list, description and return thereof as herein required, shall forfeit and pay a penalty of one hundred dollars, and all such implements, machinery or apparatus shall be seized by any officer of Inland Revenue having a knowledge thereof and shall be and remain forfeited to the Crown.

Penalty for
selling or
having in
possession
any package
of manufac-
tured tobacco
unstamped.

131. Every person who shall sell or offer for sale or have in his possession any package of tobacco, snuff or cigars upon which no label or stamp has been affixed in compliance with the requirements of this Act shall forfeit and pay for each such offence a penalty of two hundred dollars; and all tobacco, snuff and cigars so offered or exposed for sale or so unlawfully had in possession, without being stamped or labelled as herein required, shall be and remain forfeited to the Crown, and shall be seized by any officer of Inland Revenue having a knowledge thereof and dealt with accordingly.

Engines and
apparatus on
premises in
which fraud
against the
Revenue is
committed to
be forfeited.

132. Every steam engine, boiler, mill, still, worm, rectifying apparatus, fermenting-tun, mash-tub, cistern, couch, machine, vessel, tub, cask, pipe and cock, with the contents thereof and all stores or stocks of grain, spirits, malt, tobacco, drugs or other material or commodity which may be in any premises or place subject to Excise, when any fraud against the revenue is committed in any such place or premises, or when the owner of any such place, premises, apparatus, goods or commodities, his agent or any person employed by him or any person having lawful possession or control of such premises, apparatus, goods or commodities, is discovered in the act of committing, or is convicted of committing any act in or about such place or premises which is declared by this Act to be a misdemeanour or felony, shall be and remain forfeited to the Crown and dealt with accordingly.

Seizure of
articles on
which duty
is not paid.

133. Every article or thing subject to duty under this Act and on which the duty hereby imposed shall not have been paid at the proper time for paying the same, shall be seized by

any officer of Inland Revenue and shall be and remain forfeited to the Crown.

134. If any maltster shall add or cause or willingly permit to be added any grain to the grain wet in any cistern, or placed in any cistern for the purpose of being wetted, after the officer of Inland Revenue shall have taken an account thereof, he shall forfeit for every such offence the sum of five hundred dollars, and all the grain so mixed or added, together with all the grain and malt then in the malt-house, shall be and remain forfeited to the Crown.

Penalty on Maltster fraudulently putting grain into a cistern.

135. If any maltster shall remove, or cause or willingly permit to be removed any malt from his malt-house before an account has been taken of the same by the proper officer, and in the manner required by this Act, or if any person shall receive or have any malt so removed and knowing the same to have been so removed, the maltster or person so offending shall forfeit the sum of five hundred dollars, and the malt so removed shall be forfeited to the Crown, and shall be seized by any officer having a knowledge thereof.

Penalty for removing malt before account is taken.

136. *This section was repealed by 37 V. c. 8, sec. 9, page 413 post, and the following substituted.*

“Every person who shall put into any bags, packages or casks which have been stamped or branded under this Act, any article or commodity subject to excise on which the duty imposed by this Act has not been paid or secured, or which has not been inspected as herein required, and every vendor of any package labelled, branded or sealed as required by this Act who shall fail to obliterate or deface such label, brand or seal before removing or allowing it to be removed from the licensed premises in which the article is made in the manner directed or required by any Departmental regulation in that behalf—

Penalty for using stamped or branded packages for goods on which duty has not been paid without defacing the stamp, &c.

“Shall be guilty of a misdemeanour, and shall forfeit and pay, for every such offence, a penalty of five hundred dollars, and in addition thereto shall be punishable, at the discretion of the Court before which the case is tried, by imprisonment for a period of not more than three months.

Punishment.

2. “Every person who shall bring or cause to be brought into any place licensed under this Act, or who shall knowingly permit to remain in any licensed place belonging to him, or in which any business subject to excise is carried on under his supervision or control, any box, jar, barrel, bag or other package, such as is used for containing any of the articles subject to excise which are made in such licensed premises, and having attached to it any stamp, mark or brand, or a part of any stamp, mark or brand affixed thereto, under any provision of this Act, as evidence that the duty to which the contents of such box, jar, barrel, bag or other package is liable, has been paid or secured, or that the inspection to which such article is liable has been made, without first giving an exact return or account, with a description of such packages and of the marks or labels then upon them to the office of Inland Revenue, under whose survey his premises are, and obtaining a permit thereto—

Or bringing stamped vessels, &c., into manufacturer's premises without observing certain conditions.

“Shall forfeit and pay a penalty of five hundred dollars, and all articles subject to excise on the premises at the time such packages are discovered shall be seized as forfeited to the Crown.”

Penalty and forfeiture.

Penalty for
not making
proper returns
of premises,
apparatus, &c.

137. Every person carrying on any business subject to Excise, or having in his possession any premises, machinery, tools, utensils, apparatus or appliances, suitable for carrying on any business subject to Excise, who shall neglect, refuse or omit to make a true and correct return and entry at the time and in the manner required by this Act, or at any time when specially required to do so under the provisions hereof, of all workshops, apartments, utensils, tools, apparatus, machinery or appliances possessed, occupied or used by or for him, or existing in or introduced into or intended to be used in the premises wherein such business is or might be carried on ; or

Using appa-
ratus with-
out re-
turned.

2. Who shall make use of any still, worm, fermenting-tun, mash-tub, cistern, malt-kiln, malt-floor, vessel, utensil, spirit-receiver, fixed or moveable pipe, cock, pump or other appliance or apparatus, or permit any such to be used in his distillery, malt-house, tobacco manufactory or bonded manufactory, which or any of which have not been made known, or reported to the proper officer previous to being so used ; or for the use of which no license has been taken out as herein required ; or

Making chan-
ges without
notice.

3. Who shall make any changes therein or additions thereto without duly notifying the Collector of Inland Revenue or other proper officer ; or

Using secret
communica-
tions, &c.

4. Who shall make, cause to be made or permit to exist, any secret, covert, or unusual connection or communication between the several parts or compartments of the premises in which such business is carried on, other than are shewn on the return or entry made thereof ; or

Or pipes, &c.,
not duly re-
turned.

5. Who shall allow any pipes, pumps, cocks, conduits, troughs or other means for conducting fluids or other matter from one part of such premises to another, or from one vessel to another, other than such as are clearly indicated and made known on the returns, models, diagrams or entries made in such premises or vessels or other than have been made known to the proper officer, or other than are permitted to be used by this Act ; or

Using appa-
ratus for pur-
poses not noti-
fied.

6. Who shall permit any apparatus, utensils, vessels, pipes, store-rooms or compartments of such premises to be used or occupied otherwise than for the purpose for which they have been entered or returned ; or

Refusing to
designate uses
of vessels, &c.

7. Who shall neglect or refuse to designate in the manner required by this Act, the contents or capacity of, and the purposes to which each vessel, utensil, apparatus, pipe, conduit, store-room, work-shop and compartment of such premises are respectively applied ; or

Refusing to
admit officers.

8. Who shall refuse to admit the Collector or other officer

of Inland Revenue or his assistants to the premises or manufactory where any business subject to Excise is carried on, at any hour of the day or night when such business is being carried on, or when any act or thing connected with the carrying on of such business is being performed therein ; or

9. Who shall refuse to admit any officer of Inland Revenue to inspect any place or premises where any grain, stock, commodity, material, utensil or apparatus suitable for carrying on any business subject to Excise is placed or deposited ; or Or to allow inspection of apparatus.

10. Who shall do or cause or permit to be done, any thing in or about the premises where such business is carried on, intended or likely to mislead any officer of Inland Revenue in the discharge of his duty, or to prevent him from ascertaining the true quantity of the products of the business therein carried on and subject to Excise ; Deceiving Officers.

Shall forfeit and pay for every such offence a penalty of five hundred dollars, together with Penalty.

A further penalty of one hundred dollars for each and every day upon which such offence has been committed. Further penalty.

138. Every still, worm, rectifying apparatus, fermenting-tun, mash-tub, machinery, vessel, utensil, pipe, cock, pump, trough, conduit, cistern, couch-frame, or apparatus, with all and every matter or thing which they may contain, and the contents of every store-room, work-shop, malt-house, kiln, or apartment in respect of which any penalty is incurred under this Act, or which has not been entered, described or returned as herein required, shall be and remain forfeited to the Crown, and shall be seized by any officer of Inland Revenue having a knowledge thereof, and dealt with accordingly. Apparatus to be forfeited.

139. Every person who shall refuse or neglect to aid any officer of Inland Revenue in the execution of any act or duty required by this Act, shall be guilty of a misdemeanour, and on conviction thereof shall be subject to a penalty of not less than fifty dollars, nor more than one hundred dollars, and shall be also liable to imprisonment in the common jail for a period not less than three nor exceeding six months. Penalty for refusing to assist officers.

140. Every person carrying on any business subject to Excise who shall fail or neglect or allow any person acting for him or in his employ to fail or neglect, — Penalty for—

2. To keep Stock Books and all such other books as are required to be kept by this Act, or by any regulation made under the provisions of this Act, or by any regulation approved by the Governor in Council, or by the Minister of Inland Revenue or by any departmental regulation in that behalf ; or Neglecting to keep books required by this Act, &c.

Not making
true entries.

3. To make true and correct entries therein of all particulars required by this Act or by the said Regulations to be entered in such Books; or

Falsifying
books.

4. Who shall in any way alter, or falsify any such entries or make or cause or allow to be made any untrue entry or entries in the said Books; or

Removing
leaves of
books.

5. Who shall remove or cause or permit the removal from the said Books of any leaf or leaves or part of a leaf or leaves; or

Defacing
books.

6. Who shall deface or erase or cause or permit to be defaced or erased any entry made therein; or

Refusing to
make any
returns, &c.

7. Who shall neglect or refuse to make any return or statement, or to give any information or to render any accounts required by this Act; or

Falsifying any
return, &c.

8. Who shall falsify any such return, statement or account; or who shall knowingly give false information; or

Refusing to
produce any
book, &c.

9. Who shall neglect or refuse to produce any book, account, statement or return herein required to be kept, or any private books or accounts which may be demanded for the inspection of any duly authorized officer of Inland Revenue, when required so to do during ordinary business hours,—

Amount of
penalty and
forfeiture of
apparatus.

Shall forfeit and pay for every such offence a penalty of five hundred dollars, together with a further penalty equal to double the amount of license fees, duty or other impost payable under this Act on any spirits, malt, manufactured tobacco, stock, goods manufactured in bond, or materials for manufacturing them;

And every article or commodity, in respect of which any fraudulent, false, incorrect or imperfect information, entry, return, account or statement has been made or given, or in respect of which any entry, return, account, statement or information has been in whole or in part neglected or refused to be made or given, or in respect of which any entry, return, account or statement has been in whole or in part erased, defaced, removed or destroyed,—

And of stock,
&c., in respect
of which false
return is made
or information
refused.

And all spirits, raw and manufactured tobacco, goods or materials, grain, malt, hops, drugs, stock, machinery, utensils, tools, apparatus, articles or commodities, in respect of which any such fraudulent, false or imperfect entry, return, account or information has been made or given, or in respect of which any information, return, entry or account may have been in whole or in part neglected or omitted, or refused to be made or given, or in respect of which any entry, return, account or

statement has been in whole or in part erased, defaced, removed or destroyed, or which may be found in the distillery, malt-house, tobacco manufactory, brewery or bonded manufactory, at the time when such false, fraudulent or imperfect information, entry, return, account or statement shall be discovered to have been made or given, or at the time when it shall be discovered that the giving of any information or the making of any return, entry, statement or account has been in whole or in part neglected, or at the time when it shall be discovered that any return, account or statement has been in whole or in part erased, defaced, removed, or destroyed,—

Shall be seized by any officer of Inland Revenue having a knowledge thereof, and shall be and remain forfeited to the Crown.

141. Any person who shall use or cause or permit the using of any beams, scales, weights or measures in or about any distillery, malt-house or tobacco manufactory, brewery or bonded manufactory, other than such as have been tested and inspected as herein provided and approved by the proper officer of Inland Revenue, shall forfeit and pay for every such offence a penalty of two hundred dollars, and a further penalty of fifty dollars for each and every day upon which such offence shall have been committed; and such beams, scales, weights and measures, shall be seized by any officer of Inland Revenue having a knowledge thereof, and shall be and remain forfeited to the Crown, and be dealt with accordingly.

Penalty for using beams, scales, weights or measures without inspection.

Forfeiture.

142. If in any distillery there shall at any time be found a close receiver, high-wine tub, low-wine tub, or doubler, which has been perforated by any hole or aperture, other than such as is necessary for the lawful use of such close receiver, or in contravention of this Act, the distiller in whose distillery the close receiver or other vessel so perforated shall be found, although such holes or apertures or perforations have been plugged or stopped, shall be liable to the penalty of five hundred dollars; and the spirit receiver or other vessel, with its contents, together with all the stock of spirits or grain in the distillery at the time when such unlawful perforation is discovered, shall be and remain forfeited to the Crown.

Penalty for having unlawful perforations in certain vessels.

143. Every person who opens or breaks any lock or seal, or other contrivance attached to any apparatus, vessel, pipe, trough, safe, receiver, meter, pump, cock, room, warehouse or apartment used for the security of the revenue under this Act, or who unlawfully abstracts any spirits, malt or tobacco, goods manufactured in bond, or materials for the manufacture thereof, from any place where they or any of them are retained under the supervision of any Officer of Inland Revenue, or who counterfeits any label, stamp or seal provided for by or under the provisions of this Act, or who in any way perforates any vessel

Breaking the Crown's lock or seal, or abstracting goods, or counterfeiting labels, &c., to be felony.

or receiver containing any spirits on which the duties have not been paid, without the knowledge and consent of the Collector of Inland Revenue, shall be guilty of felony.

Penalty for— **144.** Every person carrying on any business subject to Excise, who shall refuse or neglect—

Not rendering accounts. 2. To render such accounts, statements and returns as are herein required, and at the time herein prescribed; or

Not paying duties. 3. To pay over at the proper time the duties and license fees imposed by this Act; or

Or forfeitures. 4. To pay over any penalty or forfeiture incurred under this Act; for more than one month after such penalty or forfeiture has been incurred;

License to be forfeited. Shall by every such refusal or neglect forfeit his license, and it shall thereupon become the duty of the Collector of Inland Revenue to cause a notice of such forfeiture to be forthwith inserted in the *Canada Gazette*, and from and after the insertion thereof, the license shall be null and void, nor shall any new license be granted to such person, nor shall any license be granted to any other person for carrying on any business in the premises occupied by him at the time of his failure to render true accounts and to pay duties or penalties, until he shall have complied with the provisions of this Act, nor until after such penalty or forfeiture has been satisfied.

No new license except on certain conditions.

Obstructing Officers a misdemeanour. **145.** Every person who shall obstruct, impede or interfere with any Officer of Inland Revenue, or any person assisting such officer in the discharge of his duty, shall be guilty of a misdemeanour, and on conviction shall be punished by imprisonment for any period not less than six months nor longer than one year.

Assaulting Officers or persons assisting them to be felony.

146. If any person under any pretence, either by actual assault, force or violence, or by threats of such assault, force or violence, in any way resists, opposes, molests or obstructs any Officer of Inland Revenue, or any person acting in his aid or assistance, in the discharge of his or their duty under the authority of this Act, or wilfully or maliciously shoots at, maims or wounds any Officer of Inland Revenue, or any person acting in his aid or assistance, while employed for the prevention of illicit distillation, brewing, malting, or manufacturing, and in execution of his or their duty, or the protection or care of any article or place seized for any contravention or supposed contravention of this Act, such person being convicted thereof, shall be adjudged guilty of felony, and shall be punishable by imprisonment for any period not less than six months nor longer than five years.

147. If any person whatever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, carriage or other thing which has been seized or detained on suspicion, as forfeited under this Act, before the same has been declared by competent authority to have been seized without due cause, and without the permission of the officer or person having seized the same, or of some competent authority,—such person shall be deemed to have stolen such goods or thing being the property of Her Majesty, and to be guilty of felony, and shall be liable to punishment by imprisonment for any period not less than six months nor longer than two years.

Punishment
for taking
away goods
seized or
detained.

Felony.

148. Any person refusing or neglecting to appear before any Justice or Justices, or any Court, to give evidence, when summoned, concerning any alleged offence against the provisions of this Act, or who shall refuse or neglect to give evidence when required, before any Officer herein authorized to examine such person, shall, for such refusal or neglect, incur a penalty of one hundred dollars.

Penalty on
persons re-
fusing to give
evidence.

149. Every person who shall violate any of the provisions of this Act, or who shall neglect any duty imposed upon him by this Act, for which violation or neglect no penalty is herein specially provided, shall be subject to a penalty of two hundred dollars.

Penalty for
any contra-
vention of this
Act when no
other is pro-
vided.

PROTECTION OF OFFICERS.

150. No writ shall be sued out against, nor any process served upon any officer of Inland Revenue for any thing done in the exercise of his duty as such officer, until one calendar month after notice in writing shall have been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of the abode of the attorney or agent; and no evidence of any cause of such action shall be produced except of such as shall be contained in such notice, and no verdict or judgment shall be given for the plaintiff, unless he shall prove on the trial, that such notice was given; and in default of such proof, the defendant shall receive in such action a verdict or judgment and costs.

Notice to Offi-
cer sued for
any thing
done in the
exercise of his
office, and
what to
contain.

No other cause
of action to be
proved, etc.

151. Every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in the place or district where the facts were committed; and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff shall become non-suited, or shall discontinue the action, or if upon a demurrer or otherwise, judgment shall be given against the plaintiff, the defen-

Action to be
brought with-
in three
months.

Pleas to such
action.

Costs.

dant shall recover costs, and have such remedy for the same as any defendant can have in other cases where costs are given by Law.

Amends may be tendered after notice : effect of such tender.

152. It shall be lawful for any such officer or person against whom any action shall be brought on account of any such seizure or entry, or of any thing done under the authority of this Act, within one calendar month after such notice, to tender amends to the party complaining or his agent, and to plead such tender in bar to any action, together with other pleas : and if the court or jury (as the case may be) find the amends sufficient, they shall give a judgment or verdict for the defendant ; and in such case, or in case the plaintiff shall become non-suited, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer or otherwise, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only ; provided always, that it shall be lawful for such defendant, by leave of the Court where such action shall be brought, at any time before issue joined, to pay money into Court as in other actions.

Costs.

Money may be paid into Court.

Nominal damages only, if Judge certifies probable cause.

153. In any such action, if the Judge or Court before whom such action shall be tried, shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than twenty cents damages nor to any costs of suit.

No costs to claimant in case of seizure with probable cause certified by Judge, nor more than nominal damages against seizing Officer.

154. In case any information or suit shall be brought to trial or determined, on account of any seizure or entry made under this Act, and a verdict shall be found or decision or judgment given for the claimant, and the Judge or Court before whom the cause shall have been tried or brought shall certify on the record that there was probable cause of seizure or for such entry, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure or entry be liable to any action, indictment, or other suit or prosecution on account of such seizure or entry ; and if any action, indictment, or other suit or prosecution, shall be brought to trial against any person on account of such seizure or entry, wherein a verdict or judgment shall be given against the defendant, the plaintiff if probable cause be certified as aforesaid on the record, besides the thing seized, if a seizure, or the value thereof, shall not be entitled to more than twenty cents damages nor to any costs of suit, nor shall the defendant in such prosecution in such case be fined more than ten cents.

RECOVERY OF DUTIES AND PENALTIES.

Duties recoverable whether account has been rendered or not.

155. Any duties of excise or license duties or fees payable under this Act shall be recoverable at any time after the same ought to have been accounted for and paid, whether an account

of the quantity of spirits, malt, tobacco, drugs or other goods or commodities, has or has not been rendered as herein required, or whether a true return of the utensils, tools and apparatus on which such duty or license fees are payable, has or has not been made as herein required; And all such duties and license fees shall be recoverable with full costs of suit as a debt due to Her Majesty, in any court of competent civil jurisdiction.

As a debt to Her Majesty with full costs.

156. All penalties and forfeitures, incurred under this Act or any other law relating to Excise, may be prosecuted, sued for and recovered in the Superior Courts of Law, or Court of Vice Admiralty having jurisdiction in that Province in Canada where the cause of prosecution arises, or wherein the defendant is served with process:—And if the amount or value of any such penalty or forfeiture does not exceed five hundred dollars, the same may also be prosecuted, sued for and recovered in any County Court or Circuit Court having jurisdiction in the place where the cause of prosecution arises or where the defendant is served with process.

Recovery of penalties.

If not over \$500, in County or Circuit Court

157. In case of the seizure of any article, the Collector of Inland Revenue for the division in which such seizure has been made, or any superior officer of Inland Revenue may sell the same within such delay as to prevent its becoming deteriorated in value, or a part of the value consumed, by reason of the expense of keeping or the decay or waste of the same, as if it had been condemned,—and may keep in his hands the proceeds of such sale until the same has been condemned, or deemed to be condemned, or ordered to be restored to any claimant, in which last-mentioned case the Court before which the claim is heard shall order the Collector to pay over to the claimant the proceeds of such sale, in lieu of awarding restitution;

How perishable articles seized may be dealt with.

2. Nevertheless the Collector of Inland Revenue or Superior Officer of Inland Revenue aforesaid may deliver up to any claimant any such article, so seized as aforesaid, upon such claimant depositing in the hands of the Collector or Superior Officer such sum of money as will represent the full value thereof, or giving security to the satisfaction of such Collector or Superior Officer that the value of such seizure and all costs shall be paid to the use of Her Majesty, if such article be condemned.

May be given up on security.

By 31 V. c. 51, sec. 12, page 409 post, the following additional sub-section was added to this section:

“3. Any article or commodity seized as forfeited under this Act or any Act relating to the Inland Revenue, may, at the option of the seizing officer, be kept or stored in the building or place where it was seized, until it is condemned or ordered to be restored to any claimant; and so long as such article or commodity is under seizure, the place or building in which it is so kept or stored shall be held to be in the sole custody of the officer of Excise or other person appointed for that purpose by the seizing officer or by any superior officer of Excise, or such article or com-

How articles seized shall be stored or kept.

modity may, by direction of such seizing officer or superior officer, be removed to and kept in any other place."

Burden of proof that duties have been paid, &c.

158. The burden of proof that the duties of Excise have been paid and all the other requirements of this Act complied with, as regards any article of any kind subject to duty under this Act, shall lie upon the parties in whose possession the goods or articles liable to duty may at any time have been before such duties were proved to have been paid or whose duty it was to pay such duties and to comply with such requirements.

Forfeited apparatus may be seized and secured until condemned.

159. If any stock, steam engine, boiler, still, fermenting-tun, machinery, apparatus, vessel or utensil, or other article or commodity be forfeited under the provisions of this Act, for any contravention thereof, they may be seized by the Collector or other officer of Inland Revenue to whom such contravention may become known, or by any other person acting by the authority of such officer, at any time after the commission of the offence for which they are forfeited, and may be marked, detained, removed, sold, or otherwise secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offender, and if condemned, they shall be removed, sold or otherwise dealt with as the Governor in Council may direct.

Schedule to be made by officer seizing, &c.

160. It shall be the duty of the Collector or other officer of Inland Revenue, or any person aiding or assisting him or them in seizing property as forfeited under this Act, to mark and number each separate piece, and to make out a schedule of all the property seized, with the estimated value thereof, which schedule or list shall be dated and signed by the Collector or other officer, and a true copy thereof shall be given to the person from whom the seizure was made; and another copy, together with the Collector or other officer's report relating to such seizure, shall be transmitted without delay to the Department of Inland Revenue.

Copies to be made and for whom.

To be seized in Her Majesty's name.

161. All property seized under any provision of this Act, shall be seized, marked and secured in the name of Her Majesty the Queen, and the power of seizing, marking and securing the same, shall be exercised by direction and under the authority of the Collector of Inland Revenue, or other officer, where and when necessary in order to carry out the provisions of this Act;

Stock in trade and apparatus of the party owing any duties or penalties to be specially liable.

2. And (without any prejudice to the liability of any other property of the debtor or his sureties.) the grain, malt, tobacco, or other materials or stock in trade, from which any goods subject to Excise are or could be wholly or in part made, stills, mash-tubs, vats, fermenting-tuns, engines, water-wheels, tables, presses, and other machinery, implements, articles and utensils, used or capable of being used for making, manufacturing or producing any such goods or preparing any materials therefor,

or by means of which any trade, business or employment subject to Excise is or has been or might be carried on, and whether so fixed as to form part of the real or immoveable property or not,—which are on the premises mentioned in the License or in the custody or possession of the party carrying on such trade or business, or in the custody or possession of any factor, agent or other person in trust for or for the use of such party, at the time when any duties become due or any penalty is incurred under this Act,—shall be and remain liable for such duties and for any penalty or forfeiture incurred by the distiller, brewer, maltster, tobacco manufacturer or bonded manufacturer, on whose premises or in custody or possession of whom or of whose factor or agent or trustee as aforesaid they are, by special and preferential privilege and lien in favour of the Crown, and may be seized and sold in satisfaction of the same under any Warrant of Distress or Writ of Execution, or other process for the recovery thereof, and may be removed by the purchaser, to whomsoever the same might otherwise belong, or into or in whose hands or possession soever the same have passed or are found, and notwithstanding any title or claim to the same or privilege or lien thereon in favour of any other person or party whomsoever,—and shall be liable to forfeiture to the Crown, under the provisions of this Act for any contravention thereof, and if so forfeited they may be seized by the Collector of Inland Revenue or other officer of Inland Revenue, or any person acting by his authority, at any time after the commission of the offence for which they are forfeited, and marked, detained or secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offender, and if condemned, they shall be removed or sold or otherwise dealt with as the Minister of Inland Revenue may direct.

Notwithstanding any claim or title.

Provision if the same be forfeited.

162. So soon as an information has been exhibited in any Court for the condemnation of any goods or things seized under this Act, notice thereof shall be put up in the office of the Clerk or Prothonotary of the Court, and also in the office of the Collector of Inland Revenue or Chief Officer of Inland Revenue, in the Inland Revenue Division wherein the goods or thing has been secured as aforesaid :

Notice of seizure to be posted up.

2. If the owner or person claiming the goods or thing exhibits a claim to the same and gives security and complies with all the requirements of this Act in that behalf, then the said Court at its sitting next after the said notice has been so posted during one month, may proceed to hear and determine any claim which has been validly made and filed in the meantime, and to the release or condemnation of such goods or thing, as the case requires,—otherwise the same shall, after the expiration of such month, be deemed to be condemned as aforesaid, and may be sold without any formal condemnation thereof ;

How claims to the property seized shall be determined.

3. No claim on the behalf of any party who has given notice

Claims to be posted up.

of his intention to claim before the posting of such notice as aforesaid, shall be admitted, unless validly made within one week after the posting thereof:—nor shall any claim be admitted, unless notice thereof has been given to the Collector of Inland Revenue or Superior Officer of Inland Revenue, within one month from the seizure as aforesaid.

Condemnation if not claimed within a certain time.

163. All vehicles, goods and other things seized as forfeited under this Act or any other Act relating to Excise, or to trade or navigation, shall be deemed and taken to be condemned, and may be dealt with accordingly, unless the person from whom they were seized, or the owner thereof do, within one month from the day of seizure, give notice in writing to the seizing officer, the Collector of Inland Revenue in the Inland Revenue Division in which such goods were seized, or Superior Officer of Inland Revenue, that he claims or intends to claim the same;

Goods seized may be delivered up on security.

2. But any Judge having competent jurisdiction to try and determine the seizure, may, with the consent of the Collector of Inland Revenue at the place where the seized articles are secured, or of any superior officer of Inland Revenue, order the delivery thereof to the owner, on receiving security by bond with two sufficient sureties, to be first approved by such Collector or Superior Officer of Inland Revenue, to pay double the value in case of condemnation, which bond shall be taken to Her Majesty's use in the name of the Collector or of the Superior Officer of Inland Revenue, and shall be delivered to and kept by such Collector or Superior Officer of Inland Revenue;—And in case such seized articles are condemned, the value thereof shall be forthwith paid to the Collector and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered.

Payment of penalty not to discharge any duty.

164. The payment of any penalty or forfeiture incurred under this Act, shall not discharge the party paying the same from the obligation to pay all duties due by such party, and the same shall be paid and may be recovered as if such penalty had not been paid or incurred.

Recovery of pecuniary penalties, and forfeitures: distress if not paid.

165. The pecuniary penalty or forfeiture incurred for any offence against the provisions of this Act, may be sued for and recovered before any two or more Justices of the Peace, having jurisdiction in the place where the offence was committed, on the oath of two credible witnesses:—And any such penalty may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under the warrant of such Justice or Justices; or the said Justices may, in their discretion, commit the offender to the Common Gaol, until the penalty, with the costs of the prosecution, shall be paid.

Imprisonment.

Costs may be recovered by

166. Provided always, that any pecuniary penalty or any

forfeiture imposed by this Act, whatever be the amount thereof, may be sued for and recovered with costs, on the oath of any one competent witness in any court having civil jurisdiction to the amount of such penalty or forfeiture, by Her Majesty's Attorney-General, or by any other person or officer thereunto authorized by the proper authority.

Attorney-General, &c., in any competent Court.

167. All forfeitures and penalties under this Act, after deducting the expenses of prosecution, shall, unless it be otherwise expressly provided, belong to Her Majesty for the public uses of the Dominion, but the net proceeds of such penalty or forfeiture, or any portion thereof, may be divided between and paid to the Collector of Inland Revenue or Superior Officer of Inland Revenue, by whom the seizure was made, or the information given on which the prosecution was founded, and to any person having given information or otherwise aiding in effecting the condemnation of the goods or thing seized, or the recovery of the penalty, in such proportions as the Governor in Council may in any case or class of cases direct and appoint; but nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council with regard to the remission of penalties or forfeitures by this Act or any other law.

Appropriation and division of penalties and forfeitures.

Proviso, as to power of Governor to remit.

168. Any Officer of the Customs or of Inland Revenue, or other person employed in the collection of the Revenue, shall be a competent witness in any prosecution or suit under this Act, provided he be not himself the prosecutor or a party to such suit, although he has or believes himself to have some expectation of advantage to himself from the successful termination of such prosecution or suit.

Excise Officers &c., to be competent witnesses.

169. All sums of money paid or recovered for any penalty or forfeiture under this Act, or any part thereof belonging to Her Majesty, shall be paid to the Receiver-General, and shall form part of the Consolidated Revenue Fund of Canada.

Sums recovered for Her Majesty to form part of Cons. Rev. Fund.

170. If any article or thing be voluntarily given up or abandoned by the owner to any Collector of Inland Revenue or Superior Officer of Inland Revenue, as forfeited under this Act, or if any sum of money be voluntarily paid to any such Collector or officer as the amount of a penalty incurred under this Act, such abandonment or payment shall be held lawful, and such article or thing may be dealt with as if legally condemned, and such sum of money as if legally recovered.

As to goods voluntarily abandoned as forfeited or penalties voluntarily paid.

171. *This section which related to the Canada Vine Growers' Association is repealed by 31 V. c. 51, sec. 13.*

31 VICT. CAP. 50.

An Act to increase the Excise Duty on Spirits, to impose an Excise Duty on Refined Petroleum, and to provide for the inspection thereof.

[Assented to 22nd May, 1868.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

ADDITIONAL DUTY ON SPIRITS.

Additional
Duty of Ex-
cise of three
cents per gal-
lon on Spirits.

Act 31 V. c. 8.

1. There shall be imposed, levied and collected, on all spirits distilled or made in Canada, on which the Duty of Excise was not paid before the twenty-ninth day of April, in the present year one thousand eight hundred and sixty-eight, a Duty of Excise of three cents for every wine gallon thereof of the strength of proof, and so in proportion for any greater or less quantity, or for any greater or less strength, and such duty shall be held to have been imposed and payable on and after the day last aforesaid, and shall be in addition to the Duty of Excise imposed on such spirits by the Act of the present Session, intituled : *An Act respecting the Inland Revenue*, and shall be computed, levied and collected in the same manner, and under the same conditions and provisions as the duty imposed by the said Act, and as if it had been imposed by that Act as part of such last mentioned duty.

PETROLEUM.

Interpretation
clause.

31 V. c. 8.

2. The words "Crude Petroleum" whenever they occur in this Act, shall mean and include all kinds of unrefined Rock or Mineral Oil or Naptha ; the words "Refined Petroleum" whenever they occur in this Act, shall mean and include every description of Coal Oil, Naptha, Benzine, Benzole, Kerosene, Parafine, Lubricating or Illuminating Oil, or other Oil or Fluid distilled, manufactured or produced by any process or treatment whatever from Crude Petroleum, Rock or Mineral Oil, Coal, Coal Tar, Bitumen, Bituminous Shale or Slate, or from any other mineral substance ; and unless it be otherwise specially provided, or there be something in the context inconsistent with or repugnant to such construction, all words and expressions in this Act shall have the meaning assigned to them in the said Act respecting the Inland Revenue.

Petroleum and
places where
it is refined to
be subject to
Excise.

3. Crude Petroleum and Refined Petroleum, and all places or premises wherever they or either of them are or is produced, distilled, made, manufactured, treated or stored, and all tools,

utensils, buildings and premises used for producing, making, manufacturing, treating or storing them or either of them shall be "subject to excise" within the meaning of the Act last above cited.

4. From and after the first day of July in the present year, one thousand eight hundred and sixty-eight, no person, except such as shall have been licensed as herein provided, shall carry on the trade or business of refining Petroleum or use any still, apparatus or utensil suitable therefor :

No person to act as a Refiner without a license.

2. Neither shall it be lawful for any person to have in his possession, any such still, apparatus or utensil without making a return thereof to the Collector of Inland Revenue in the same manner, with the like particulars, and under the same conditions, as to the periods, form and manner of making the same, and the like penalties for any neglect or failure to make the same, as are provided with respect to apparatus and utensils subject to Excise, by the Act last above cited, and any such apparatus or utensil not so returned shall be forfeited.

Nor have apparatus without making a return thereof.

5. A license to carry on the trade or business of refining Petroleum, may be granted by the Collector of Inland Revenue within whose division the business is to be carried on, upon the like application and security, and on the like conditions, and under the like restrictions, as are provided with respect to a Distiller's license, by the Act last above cited, and shall remain in force, (if not forfeited for any contravention of this Act) until the thirtieth day of June next after the date thereof.

Conditions, &c., on which a license may be granted.

6. The party in whose favour a license to refine Petroleum is granted, shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of fifty dollars.

Fee for license.

7. There shall be imposed, levied and collected, on every wine gallon of refined Petroleum, refined, manufactured or made in Canada, on or after the twenty-ninth day of April, in the present year, one thousand eight hundred and sixty-eight, a duty of excise of five cents, and the said duty shall be held to have been imposed on the day last mentioned.

Duty on Refined Petroleum.

By 34 V. c. 15, sec. 1, page 410 post, the following proviso was added to this section.

"Parafine wax in a solid state, grease for lubricating purposes and being fluid, lubricating oil made from crude petroleum without being subjected to any process of distillation, tar and other refuse removed from the still without passing through the worm or condenser, and any article produced from such tar or refuse without further process of distillation, shall be exempt from any duty of excise."

8. The quantity of the refined Petroleum made at any refinery, before or after the passing of this Act, which shall be

Quantity liable to how ascertained.

liable to duty, shall be determined under such Regulations and by such means as may from time to time be made and prescribed by any Order of the Governor in Council.

Duties &c,
to be payable
as under
Inland
Revenue Act.

9. All duties, inspection fees, license fees, penalties and forfeitures imposed, incurred or payable by this Act, or by or under any Regulation made by authority thereof, shall be due and payable and shall be collected, recovered or enforced, at the like periods, in the like manner, and under the like conditions as duties, fees, forfeitures and penalties are due, payable, collected, recovered or enforced under the said Act respecting the Inland Revenue.

Parties licen-
sed to be sub-
ject to the
provisions of
the said Act.

10. All persons licensed, or carrying on any business subject to Excise under the provisions of this Act, shall keep such accounts and books and make all such returns as to their business and the quantity of Petroleum, whether crude or refined, obtained, received, produced, refined, treated or manufactured by them, as may be required by any departmental regulations in that behalf; and every such person shall be liable to the like penalties, punishment and forfeitures, for failure to make such returns, for making false or imperfect returns, for failing to make true entries, for failing to pay duties, fees, fines or penalties at the proper time, for obstructing any officer of Inland Revenue or Excise in the performance of his duties, for failing to comply with regulations made by the Governor in Council or by the Minister of Inland Revenue, or other departmental competent authority, and generally for any offence against the said Act or this Act, or any default to comply with the requirements thereof, as a distiller would be liable to for a like offence or default under the provisions of the Act last above cited, and in any case of doubt, the Governor in Council may make such regulations as may be necessary for determining how far and in what manner the provisions of the said Act are applicable to the enforcement of the requirements of this Act.

Petroleum
which will
not bear a
certain test,
not to be im-
ported, sold or

11. Upon and after the fifteenth day of June, in the present year one thousand eight hundred and sixty-eight, it shall not be lawful to import into Canada, or to sell or offer for sale therein, or for any person except persons licensed under this Act, to have in possession (except in the cases hereinafter specially provided for), any Refined Petroleum which will not bear the "fire test" of at least one hundred and fifteen degrees of Fahrenheit's thermometer, without giving off vapour that will ignite or explode on the application of fire thereto.

By 34 V. c. 15 sec. 2, page 410 post, this section was amended by substituting the words one hundred and five degrees for the words one hundred and fifteen degrees as the fire test for refined petroleum.

Refined Petro-
leum to be
subject to
inspection.

12. From and after the day last aforesaid, all Refined Petroleum shall be subject to inspection under this Act, and it

shall not be lawful after the said day to sell, offer for sale, or to have in possession, any Refined Petroleum which has not been inspected or offered for inspection under this Act; and every person having in possession any Refined Petroleum on or after the day last aforesaid, shall immediately ascertain whether the same has been inspected as required by this Act, and if it has not, he shall forthwith make application to the nearest officer authorized to inspect Petroleum, who shall thereupon make the inspection; and every person who shall fail to apply forthwith to the proper officer, or who shall fail or neglect to take all necessary steps to have the Petroleum in his possession inspected, or who shall retain in his possession (except in the cases hereinafter specially provided for), after the inspection has been made, any Petroleum which will not bear the aforesaid "*fire test*," shall be held guilty of a misdemeanour, and shall be liable on conviction thereof to punishment by imprisonment for a period not exceeding six months, or by a fine not exceeding five hundred dollars, or by both, at the discretion of the Court, before which the conviction shall be had; Provided always, that the Governor in Council may permit the importation, manufacture, sale and storage of Benzine and similar products of Petroleum, which will not stand the above mentioned fire test, under such regulations as he may deem necessary, and may also in like manner modify the "*fire test*," by allowing a lower degree of heat than *one hundred and fifteen degrees of Fahrenheit*, as regards stocks of Refined Petroleum, which, before the passing of this Act, were in the possession of persons who are not refiners.

Penalty for keeping or selling it without inspection.

Proviso: as to Benzine, &c., and stocks on hand before this Act.

See note to section 11.

13. The Governor in Council may from time to time make such regulations respecting the storage of petroleum, crude or refined, as he may deem necessary for the public safety, making special regulations as to benzine, or other similar products of petroleum, if he sees fit; and may also make regulations for warehousing refined petroleum without payment of the duty hereby imposed, and for the application of the warehousing regulations contained in or made under the Act last above cited, to refined petroleum so warehoused, subject to any modification which he may consider expedient.

Regulations for the storage of petroleum.

14. Every person having in his possession any refined petroleum shall, when any officer is about to inspect it, furnish for the use of such officer all necessary implements and conveniences, and shall provide all such assistance as may be required for making such inspection.

Party requiring inspection shall furnish implements, &c.

15. All refined petroleum sold or offered for sale without having been inspected and branded as herein required, or on which the duty, inspection fee, or other impost has not been paid, or secured as herein required, and all refined petroleum imported into Canada, or sold or offered for sale or retained in

Forfeiture of uninspected petroleum.

the possession of any party therein in contravention of any provision of this Act, or with respect to which any regulation for the storage thereof has been contravened, shall be forfeited and shall be seized by any officer of Customs or Excise having a knowledge thereof, and dealt with accordingly.

Articles forfeited to be dealt with under Inland Revenue Act.

16. Any article or property seized as forfeited under this Act shall be secured, disposed of, and dealt with in like manner as is provided with respect to any article or property seized under the provisions of the Act last above cited; and any refined petroleum which will not stand the fire test herein provided or allowed in the special case by the Governor in Council, may, when not in the possession of a licensed refiner be seized as forfeited, and if in the opinion of the proper officer no suitable storage is available, shall be destroyed, but if there be suitable storage available it may be stored and afterwards sold to any licensed refiner, or otherwise disposed of as other forfeited goods, under any departmental regulation in that behalf.

By whom Petroleum shall be inspected, and under what regulations.

17. The inspection of Petroleum required by this Act shall be performed by officers of the Inland Revenue or Customs duly authorized thereto, and such authority may be given and such inspection performed at any time after the passing of this Act, and the Governor in Council may, from time to time, make such regulations as he may think proper, for determining the nature of the fire test to be applied, the instruments to be used for applying such test, the classification to be made of the several qualities of Refined Petroleum inspected, the designation under which each quality shall be known, the mode of stamping the barrels, casks or packages containing the refined Petroleum, the prevention of frauds in relation to such stamps, the disposal of such refined Petroleum as will not stand the required fire test, and generally for giving effect to the provisions of this Act, and ensuring strict compliance with all the requirements thereof.

As to Regulations by Governor in Council.

18. Every regulation or order made by the Governor in Council or by the Department of Inland Revenue, under the authority of this Act, shall upon publication thereof, in the manner provided by the Act last above cited with respect to Regulations and orders made under it, be construed as forming part of the said Act and of this Act, and shall, until repealed or altered by any subsequent regulation have the force of law.

Fees for inspection.

19. On and after the fifteenth day of June, in the present year, one thousand eight hundred and sixty-eight, there shall be imposed, levied and collected an inspection fee of twenty cents, upon every barrel, cask or package containing not less than twenty gallons of refined Petroleum inspected under this Act, and upon every barrel, cask or package so inspected and containing less than twenty gallons, an inspection fee equal to one cent per gallon, and such fees shall immediately after such

inspection be paid by the person owning or having the custody of such refined Petroleum, to the officer inspecting it, to be accounted for by such officer as may be provided by departmental regulations as Inland Revenue.

By 34 V. c. 15, sec. 3, notwithstanding anything in this section the Governor in Council may exempt from duty all such products resulting from the distillation of Petroleum as can neither be used for illuminating purposes, nor for adulteration of such refined petroleum as is suitable for illuminating purposes, and may also reduce the inspection fees provided by this Act.

20. All the provisions of the Act last above cited respecting stamps, and all penalties imposed by the said Act for any contravention of any provision thereof in respect to stamps, shall equally apply to stamps attached or impressed or affixed under this Act, to or upon any barrels, casks or packages, as well as to such barrels, casks or packages, and to the contents thereof.

As to stamps under this Act.

21. *Repeals certain Acts of Nova Scotia and New Brunswick.*

22. This Act shall be read and construed as one Act with the said Act passed in the present Session, and intituled: *An Act respecting Inland Revenue*, and the Act of the present Session amending it, which shall be understood when the said Act is herein mentioned; and all the provisions thereof with respect to the obligations of persons holding licenses, the notice of intention to work, the lists of apparatus used, the designation of apartments used for particular purposes, the keeping of proper books to show the quantity of any article subject to duty by any person licensed, the inspection of such books by any officer of Inland Revenue, and his right to make entries therein, or take extracts therefrom, the payment of duties, and the rendering of accounts for ascertaining the amount payable, and the penalties for non-payment of duties, or the not rendering of such accounts, shall apply to all persons licensed under this Act; the provisions of the said Act respecting the powers and duties of officers of Inland Revenue and Excise, Judges, Justices of the Peace, and other officers and functionaries, shall extend and apply to persons, places, premises, apparatus, and things subject to Excise under this Act; the penalties and forfeitures imposed by the said Act on persons carrying on any business subject to excise without being thereunto licensed, or in any place to which the license does not extend, or using any fraudulent apparatus, or apparatus of which no proper return has been made, or refusing to admit officers of Inland Revenue or Excise to premises subject to excise or to assist them in the performance of their duty, or for neglecting to keep proper books, or not making the entries therein, or for using any scales, weights or measures not inspected, or breaking the

This Act to be construed as one Act with the Inland Revenue Act, the provisions of which shall apply to things done under this Act.

Notices.

Books.

Accounts.

Power of officers.

Penalties.

Crown's lock, or abstracting goods seized or forfeited, or taking any goods from any place where they are retained under the supervision of any officer of Inland Revenue, or for counterfeiting any stamp, label, or seal, or not admitting officers of Inland Revenue, or persons assisting them or for any other contravention of the Act, shall extend and apply to, and shall be incurred by any person committing similar offences, or similar contraventions of this Act, which shall be held to be offences or crimes of the like nature and degree; the provisions of the said Act for the protection of officers and persons acting under it shall extend and apply to officers and persons acting under this Act; and the provisions of the said Act for the recovery of duties and penalties, and the liability of stock and materials, apparatus and property on the premises of the party owing any duty or having incurred any penalty, and the appropriation of penalties and forfeitures, shall extend and apply to duties, forfeitures and penalties, under this Act; and generally (and without that the general provision shall impair the effect of the special provisions in this section, or that they shall impair the effect of this general provision) all the provisions of the said Act shall extend and apply, be construed, and have effect as if the foregoing sections of this Act formed part of the said Act.

Protection of
officers.

Recovery of
duties, penal-
ties, &c.

General
provision.

Short title. **23.** This Act may be cited as the "Inland Revenue Act, 1868."

31 VICT. CAP. 51.

An Act for better securing the payment of the duty imposed on Tobacco manufactured in Canada.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Raw tobacco
to be imported
at certain
ports only

1. Raw or leaf tobacco shall not be imported into Canada, except at the undermentioned ports, namely: Halifax, St. John in New Brunswick, Miramichi, Quebec, Montreal, St. John's in the District of Iberville, Prescott, Kingston, Toronto, Hamilton Clifton, Sarnia, Windsor and London, and at such other ports of entry as the Governor in Council may authorize.

All such to-
bacco to be
bonded.

2. All raw or leaf tobacco imported shall be bonded at one or other of the above named ports of entry, in a Customs

Warehouse which shall be subject to the approval of the Collector of Customs at the port of entry.

3. All tobacco grown in Canada and prepared for sale, shall, when it passes out of the possession of the occupant of the farm or premises upon which it was grown, be carried directly to and deposited either in a licensed tobacco manufactory, and entered in the stock book of the manufacturer, or it shall be bonded in a tobacco warehouse in the same manner and under the same conditions as are herein provided with respect to raw tobacco imported from abroad, except such as may be sold to a dealer in tobacco licensed as herein provided, and having a permit to receive such tobacco, and having paid the duty thereon.

Tobacco grown in Canada to be bonded &c., if removed from the place of growth.

Exception.

4. All raw or leaf tobacco, whether imported or grown in Canada, may be taken for consumption out of bond or from the farm or premises upon which it was grown, by a dealer in tobacco duly licensed for that purpose, under regulations to be made by the Governor in Council, and upon payment of the same duty which would be payable thereon if it had been manufactured and taken out of bond for consumption in Canada.

May be taken by a licensed dealer under regulations.

5. The bond taken for tobacco warehoused as herein required shall be for a sum equal to fifteen cents per pound on the tobacco to which it relates and shall be conditioned for the delivery of the raw or leaf tobacco to which it relates, to some one or more tobacco manufacturers duly licensed as such under any Act relating to the Inland Revenue, or for the delivery of such tobacco to a dealer in tobacco licensed under this Act, on a proper permit, and the payment of the duty thereon by such dealer, or for its exportation or destruction as herein required; and the evidence of its delivery to a licensed tobacco manufacturer shall be the certificate of a Collector of Inland Revenue, that the tobacco has been delivered into some certain licensed tobacco manufactory or manufactories therein named, and that an account thereof has been entered in the manufacturer's books, as required by law.

Conditions of the Bond.

Evidence of compliance with bond.

6. Tobacco warehoused as herein provided, may remain in warehouse for a period of two years, at the expiration of which period, or sooner, it shall either be removed to and entered in some licensed tobacco manufactory or manufactories as herein provided, or taken out by a licensed dealer, or entered for exportation, or at the expiration of such period it shall be destroyed under such regulations as may be made in that behalf by competent authority.

How long to remain bonded.

7. All stems, sweepings or other waste or refuse tobacco, whether the same be found in a tobacco manufactory or elsewhere, and which are not worked up and charged at some manu-

As to tobacco stems and sweepings.

factory with duty, shall also be destroyed under regulations as above provided, or entered for exportation.

Forfeiture of tobacco imported in contravention of this Act.

8. All raw or leaf tobacco imported or brought into Canada at any port or place other than at the ports of entry herein named, shall be seized by any officer of Customs or Excise having a knowledge thereof, and shall be and remain forfeited to the Crown.

And of Tobacco grown in Canada in certain cases.

9. All imported raw or leaf tobacco not bonded as herein required, and in the possession of any person except a licensed tobacco manufacturer,—

And all raw or leaf tobacco grown in Canada not bonded as herein required and removed from the farm or premises whereon it was grown, and in the possession of any person other than a licensed tobacco manufacturer, or of a licensed dealer who has obtained a permit to take such tobacco out of bond or from the farm or premises whereon it was grown, except only for the purpose of carrying it directly to some licensed tobacco manufactory or to a tobacco warehouse, the proof whereof shall lie upon the person having possession thereof,—

Forfeiture and seizure.

Shall be seized by any officer of Customs or Excise having a knowledge thereof and shall be and remain forfeited to the Crown,—

Exception.

Except only that any person may have in his possession for his own use or consumption, not exceeding ten pounds of raw or leaf tobacco, purchased from a licensed dealer, and on which the duty hereby imposed has been paid, the proof whereof shall lie on such person.

Governor in Council to make regulations for giving effect to this Act.

10. The Governor in Council may make such regulations for warehousing raw or leaf tobacco, for destroying such as is not entered for exportation or manufacture, for bonding and taking an account of all raw or leaf tobacco heretofore imported or grown in Canada, for removing raw or leaf tobacco from one warehouse to another, for causing accounts to be kept by tobacco manufacturers or others of raw or leaf tobacco received by them, for determining the quantity of manufactured tobacco, snuff or cigars, which shall in any case or set of cases, be deemed equivalent to one hundred pounds of the raw leaf, for the granting of licenses to persons to deal in raw or leaf tobacco, and permits to such persons to take such tobacco out of bond or from the grower, but without fee for either, and generally for giving effect to the provisions of this Act, as to him may seem necessary.

Sec. 116 c.
31 V. c. 8,
amended.

11. Section one hundred and ten of the Act chapter eight, passed in the present session, and intituled: *An Act respecting the Inland Revenue*, is hereby amended by substituting the

word "any" for the word "the" in the first line of the said section, as printed by the Queen's Printer, and striking out the words "wherein they have been manufactured" in the first and second lines.

For the section amended, see page 380 ante.

12. Section one hundred and fifty-seven of the said Act, Sect. 157 of 31 V. c. 5, amended. chapter eight, passed in the present session, is hereby amended by adding the following subsection which shall be held to form and shall be read and construed as forming part of the said section :

"3. Any article or commodity seized as forfeited under this Act or any Act relating to the Inland Revenue, may, at the option of the seizing officer, be kept or stored in the building or place where it was seized, until it is condemned or ordered to be restored to any claimant; and so long as such article or commodity is under seizure, the place or building in which it is so kept or stored shall be held to be in the sole custody of the officer of Excise or other person appointed for that purpose by the seizing officer or by any superior officer of Excise, or such article or commodity, may by direction of such seizing officer or superior officer, be removed to and kept in any other place."

How articles seized shall be stored or kept.

For the section amended as above, see page 395 ante.

13. Section one hundred and seventy-one of the Act last above cited is hereby repealed. Sect. 171 repealed.

14. This Act shall be read and construed as forming one Act with the Act last above cited and as forming part of it, so that all Regulations made under this Act and all penalties imposed thereby, and all forfeitures incurred under this Act or under such Regulations, and all things done under this Act shall be held to be made, imposed, incurred and done under the said Act as hereby amended; and all words and expressions in this Act shall have the same meaning as is assigned to them respectively in the said Act, and the expression "this Act," either in the said Act or in this Act shall include the said Act and this Act, unless there is something in the context inconsistent with this provision. This Act to form one with 31 V. c. 8.

15. All Acts or parts of Acts which may be inconsistent with this Act, are hereby repealed. Inconsistent enactments repealed.

16. This Act may be cited as "The Act respecting Raw Short Title Tobacco."

34 VICT. CAP. 15.

An Act to amend the Inland Revenue Act, 1868, and to alter the duties of Excise chargeable in the Province of Manitoba.

[Assented to 14th April, 1871.]

Preamble.
31 V., c. 50.
33 V., c. 3.

IN amendment of the Inland Revenue Act, 1868, and the Act passed in the thirty-third year of Her Majesty's Reign, and intituled "An Act to amend and continue the Act 32 and 33 Victoria, Chapter 3, and to establish and provide for the Government of the Province of Manitoba;" Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Section 7
amended as
to certain
products from
petroleum,
which will
be free of
duty.

1. The following proviso shall be added to the seventh section of the Act first cited in the preamble to this Act.

"Paraffine wax in a solid state, grease for lubricating purposes and being fluid, lubricating oil made from crude petroleum without being subjected to any process of distillation, tar and other refuse removed from the still without passing through the worm or condenser, and any article produced from such tar or refuse without further process of distillation, shall be exempt from any duty of excise."

For the section amended, see page 401 ante.

Section 11
amended.
Fire test of
petroleum.

2. The eleventh section of the said Act is hereby amended, by substituting the words, "one hundred and five degrees,"—for the words "one hundred and fifteen degrees,"—as the *fire test* for refined petroleum.

For the section amended, see page 402 ante.

Certain other
products of
petroleum
may be freed
from duty.

3. Notwithstanding anything contained in the nineteenth section of the Act thirty-first Victoria, chapter fifty, the Governor in Council may exempt from duty all such products resulting from the distillation of petroleum as can neither be used for illuminating purposes, nor for adulteration of such refined petroleum as is suitable for illuminating purposes: and may also from time to time reduce the inspection fees provided by the said Act.

Sect. 19 of 33
V. c. 9.
amended.

4. The nineteenth section of the Act thirty-third Victoria, chapter nine, respecting Customs and Excise, is hereby amended, by expunging the words "sixty-five cents," in the eleventh line thereof, and inserting in lieu thereof the words "sixty-three cents."

For the section amended, see page 332 ante.

5 & 6. *These sections relate to Manitoba only.*

37 VICT. CAP. 8.

An Act to impose License duties on Compounders of Spirits ; to amend the " Act respecting the Inland Revenue ;" and to prevent the Adulteration of Food, Drink and Drugs.

[Assented to 26th May, 1874.]

HER MAJESTY, by and with the advice and consent of Preamble.
the Senate and House of Commons of Canada, enacts as follows :—

DEFINITION.

1. All spirits distilled or made in Canada shall be deemed and called Canadian Spirits. Interpretation
clause.

Compounded Spirits shall mean and include all articles containing Canadian or other spirits, which are enumerated in the first schedule to this Act, or which may be added to such schedule by any order of the Governor in Council.

" *Compounder* " shall mean and include every person who by himself or his agent compounds or mixes for sale by wholesale any of the articles enumerated in the first schedule to this Act, or which may be added to such schedule by order of the Governor in Council.

Adulterated Liquor shall mean and include all spirituous and malt liquors, wines, cordials or other intoxicating liquors to which has been added any of the ingredients named in the second schedule to this Act, or added to such schedule by order of the Governor in Council.

Adulterated Food or Drink shall mean and include all articles of food or drink with which there has been mixed any deleterious ingredient, or any material or ingredient of less value than is understood or implied by the name under which the article is offered for sale.

Food means and includes every article used as food in the state in which it is offered for sale, or that is used in the preparation of food by admixture therewith, either before, during or after cooking.

Drink means and includes any liquid used as a beverage, and any article used in or for the preparation or partial preparation of any beverage.

Drug means and includes all articles used for curative or medicinal purposes.

Compounders must be licensed.

2. From and after the coming into force of this Act no person except such as shall have been licensed as herein provided shall carry on the business of a compounder.

Conditions of license and amount and form of bond.

3. A license to carry on business and to act as a compounder, and to sell by wholesale the articles compounded under such license may be granted to any party who has complied with the provisions of this Act: provided that the granting of the license has been approved by the District Inspector of Inland Revenue, and that the party has, jointly and severally with two good and sufficient sureties, entered into a bond to Her Majesty, her heirs and successors, in the sum of one thousand dollars; and such bond shall be taken before the Collector of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the party to whom the license is granted will become liable to render or pay under the provisions of this Act, and that such party will faithfully comply with the requirements thereof according to their true intent and meaning, as well with regard to such accounts and penalties, as to all other matters and things whatsoever.

Conditions of bond.

Duty on license.

4. The party in whose name a license is granted to act as a compounder, shall upon receiving such license pay to the Collector of Inland Revenue the sum of fifty dollars.

Accounts to be kept.

5. Every compounder shall make such entries and returns and keep such books and accounts as may be, from time to time, determined by Departmental regulations.

Inland Revenue Act to apply to compounder and his premises, and to his license.

6. All the definitions as to what constitutes the premises of a distiller and the utensils of a distiller, and all the liabilities of a distiller as to making entry of and designating his utensils and apparatus, or as to designating the apartments of the premises in which the business is carried on, shall apply to the compounder, and to his premises and utensils, and every license granted to a compounder shall be a license under the Act respecting the Inland Revenue herein cited.

And to articles made by him.

7. All the articles made by a compounder shall be liable to the same restrictions and provisions as to their removal from the premises in which they are made, and as to their removal from place to place, as Canadian or other spirits are liable to.

Articles so made to be designated by label, &c.

8. Every article made by a compounder shall be designated by some label or brand which shall shew the name of the compounder and the place at which such article was made; and the Governor in Council may, when it is deemed expedient so to do,

order that such brands or labels, shall be in the form of a stamp, issued by the Department of Inland Revenue.

9. The Act passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act respecting the Inland Revenue*," is hereby amended by repealing section one hundred and thirty-six of the said Act, and substituting the following in its place:—

S. 136 of 31 V. c. 8, repealed and new section substituted.

"136. Every person who shall put into any bags, packages or casks which have been stamped or branded under this Act, any article or commodity subject to excise on which the duty imposed by this Act has not been paid or secured, or which has not been inspected as herein required, and every vendor of any package labelled, branded or sealed as required by this Act who shall fail to obliterate or deface such label, brand or seal before removing or allowing it to be removed from the licensed premises in which the article is made, in the manner directed or required by any Departmental regulation in that behalf—

Penalty for using stamped or branded packages for goods on which duty has not been paid without defacing the stamp, &c.

"Shall be guilty of a misdemeanour, and shall forfeit and pay, for every such offence, a penalty of five hundred dollars, and in addition thereto shall be punishable, at the discretion of the Court before which the case is tried, by imprisonment for a period of not more than three months.

Punishment.

"2. Every person who shall bring or cause to be brought into any place licensed under this Act, or who shall knowingly permit to remain in any licensed place belonging to him, or in which any business subject to excise is carried on under his supervision or control, any box, jar, barrel, bag or other package, such as is used for containing any of the articles subject to excise which are made in such licensed premises, and having attached to it any stamp, mark or brand, or a part of any stamp, mark or brand affixed thereto, under any provision of this Act, as evidence that the duty to which the contents of such box, jar, barrel, bag or other package is liable, has been paid or secured, or that the inspection to which such article is liable has been made, without first giving an exact return or account, with a description of such packages and of the marks or labels then upon them to the office of Inland Revenue, under whose survey his premises are, and obtaining a permit thereto—

Or bringing stamped vessels, &c, into manufacturer's premises without observing certain conditions.

"Shall forfeit and pay a penalty of five hundred dollars, and all articles subject to excise on the premises at the time such packages are discovered shall be seized as forfeited to the Crown."

Penalty and forfeiture.

See page 387 ante, where the above new section is inserted.

10. Sub-section two of the forty-second section of the Act above cited is hereby repealed, and the following substituted therefor:—

Sub s. 2 of s. 42, repealed and new sub s substituted.

"2. All quantities of fluids shall be stated in the aforesaid books, returns, statements and descriptions, in gallons; and the

Measuring fluids by gallons.

quantity of any fluid in gallons shall, for all the purposes of this Act, be determined by weighing or gauging in such manner as may be, from time to time, prescribed by any Departmental regulation in that behalf."

See page 361 ante, where the above new sub-section is inserted.

S. 79 amended.
Computation
of duty for
half-months.

11. Section seventy-nine of the Act above cited is hereby amended by adding the following words:—"And the duty exigible on any article made during any half month shall be computed at the rate of duty to which it is or may be liable on the day upon which the return respecting it is required to be made; and no exciseable article shall be removed from the place in which it is made until an account of it has been included in the return herein mentioned, unless such removal is permitted by some general regulation made by the Department of Inland Revenue in that behalf."

Removal of
goods not
allowed.

See page 373 ante, where the above addition is inserted.

Ss. 39, 57, 65,
66, and 80,
amended.
Measurement
by bushels to
be replaced by
centals.

12. The thirty-ninth, fifty-seventh, sixty-fifth, sixty-sixth and eightieth sections of the Act above cited are hereby amended by removing therefrom the words "bushel" or "bushels," wherever they or either of them occur in the said sections. And for the purpose of comparing the gauges of grain and malt as required by any provision of the said Act, the Department of Inland Revenue may, by regulation in that behalf, substitute such measure of capacity as will represent as nearly as may be a cental of barley or the sub-multiple of the cental: Provided always, that such substitution shall not increase or diminish the rate of duty charged on malt nor the quantity of malt required to be produced from a given quantity of barley or grain.

Proviso.

Governor in
Council may
add or take
away articles
in schedules.

13. It shall be lawful for the Governor by Order in Council to add to either of the schedules to this Act, or to remove from either of the said schedules any article or ingredient the addition or removal of which may, by him, be deemed necessary in the public interest. Every such order shall be published in the *Canada Gazette*, and shall take effect at the expiration of thirty days from the date of such publication.

Analysts of
food, &c., to
be appointed.

14. The Governor may appoint in each Inland Revenue Division one or more persons possessing competent medical, chemical and microscopical knowledge, as analysts of food, drink and drugs purchased, sold or offered for sale within such division, and may cause such remuneration to be paid to such analysts as he may deem proper.

Duty of In-
land Revenue
officers.

15. The officers of Inland Revenue, the Inspectors and Deputy Inspectors of Weights and Measures, and the Inspectors and Deputy Inspectors acting under the Act respecting the Inspection of staple commodities, or any of them, shall, when required to do so by any regulation made in that behalf

by the Department of Inland Revenue, procure and submit samples of food or drink or drugs suspected to be adulterated to be analysed by the analysts appointed under this Act; and upon receiving a certificate signed by an analyst, that such article of food, or drink or drug is adulterated, shall seize the articles from which the sample was taken; and every such seizure shall be a seizure under the Act respecting the Inland Revenue herein cited, and shall be dealt with accordingly.

Adulterated articles to be seized and destroyed.

16. Every analyst appointed under this Act shall report quarterly to the Department of Inland Revenue the number of articles of food, drink or drugs analysed by him under this Act during the foregoing quarter, and shall specify the nature and kind of adulterations detected in such articles of food, drink or drugs; and all such reports or a synopsis of them shall be printed and laid before Parliament as an appendix to the annual report of the Minister of Inland Revenue.

Analysts to report quarterly to Department.

17. Any officer or person authorized under this Act may procure samples of food, drink and drugs which are required to be analyzed under this Act from any person having such articles in his possession, or selling or exposing the same for sale: he may procure such samples either by purchasing the same or by requiring the person in whose possession they are to shew him and allow him to inspect all such articles in his possession, and the place or places in which such articles are stored, and to give him samples of such articles on payment or tender of the value of such samples.

Power to procure samples of articles offered for sale.

18. If the person having such articles in his possession, or his agent or servant when required in pursuance of this Act, refuses or fails to admit the officer, or refuses or omits to shew all or any of the said articles in his possession, or the place where any such articles are stored, or to permit the officer to inspect the same, or to give any samples thereof, or to furnish the officer with such light or assistance as he may require, he shall be liable to the same penalty and forfeiture as if he knowingly sold or exposed for sale adulterated articles.

Penalty for refusal to admit officer, or furnish samples, &c.

19. When the officer has by either of the means aforesaid procured samples of the articles to be analyzed, he shall cause the same to be analyzed by one of the analysts appointed under this Act; and he shall give reasonable notice to the person from whom the sample was obtained, to enable such person, if he thinks fit, to attend when the sample is opened for analysis; and if it appears to the person so analyzing that the sample is adulterated within the meaning of this Act, he shall certify such fact, and the certificate so given shall be received as evidence in any proceedings that may be taken against any person in pursuance of this Act,—subject to the right of any person against whom proceedings are taken to require the attendance of the person making the analysis, for the purpose of cross-examination.

Officer to cause samples to be analyzed.

Duty of analyst, his certificate, and its use.

Right of party from whom the sample is obtained to prevent tampering with it.

What the certificate must shew.

20. The person from whom any sample is obtained under this Act may require the officer obtaining it to annex to every vessel containing any such sample the name and address of such person, and to secure with a seal or seals belonging to him the vessel containing the sample and the address annexed thereto in such manner that the vessel cannot be opened or the name and address taken off without breaking such seals; and a corresponding sample sealed by such officer with his own seal shall, if required, be left with the person from whom the sample is taken for reference in case of disputes as to the correctness of the analysis or otherwise; and the certificate of the person who analyses such samples shall state the name and address of the person from whom they were obtained, and that the vessels were not open, and that the seals securing to the vessels the name and address of such person were not broken until such time as he opened the vessels for the purpose of making his analysis; and in such case as aforesaid no certificate shall be receivable in evidence unless there is contained therein such statement as above or to the like effect.

Expense of analysis, how paid.

21. Any expenses incurred in analyzing any food, drink or drugs in pursuance of this Act shall, if the person from whom the sample is taken be convicted of having in his possession, selling or exposing for sale adulterated food, drink or drugs in contravention of this Act, be deemed to be a portion of the costs of the proceedings against him, and shall be paid by him accordingly. In any other event, such expenses shall be paid as part of the expenses of the officer who procured the sample.

Penalty on persons mixing deleterious articles with food, &c

Second offence.

22. Every person who shall wilfully admix, and every person who shall order any other person to admix with any article of food or drink any deleterious or poisonous ingredient or material to adulterate the same for sale, and every person who shall wilfully admix and every person who shall order any other person to admix any ingredient or material with any drug to adulterate the same for sale, shall, for the first offence forfeit and pay a penalty of one hundred dollars, together with the costs attending the conviction, and for the second offence shall be guilty of a misdemeanour, and be imprisoned for a period not exceeding six calendar months with hard labour.

Or offering articles so mixed for sale.

And for subsequent offence.

23. Every person who shall sell or offer for sale any article of food or drink with which, to the knowledge of such person any deleterious ingredient or material injurious to the health of persons eating or drinking such article has been mixed, and every person who shall sell as unadulterated any article of food or drink or any article commonly used in the preparation of food or drink or any drug which is adulterated, shall, for every such offence, on conviction of the same, pay a penalty of one hundred dollars, together with the costs attending such conviction; and if any person so convicted shall afterward commit a like offence, he shall pay a penalty of two hundred dol-

lars, and in either case the adulterated articles shall be seized as forfeited to the Crown.

24. Any person who shall sell any article of food or drink or any drug, knowing the same to have been mixed with any other substance with intent fraudulently to increase its weight or bulk, and who shall not declare such admixture to any purchaser thereof before delivering the same, and no other, shall be deemed to have sold an adulterated article of food, or drink, or drug as the case may be, under this Act.

Who shall be held to have sold adulterated food, &c.

Every person who mixes or causes to be mixed with any intoxicating liquors sold or exposed for sale by him, any deleterious ingredient, that is to say, any of the ingredients specified in the second schedule to this Act, or added to such schedule by any Order in Council made under this Act, or any ingredient deleterious to health;

As to adulterated drinks.

Every person who sells, or keeps, or exposes for sale any intoxicating liquors mixed with any deleterious ingredient; and

Keeping or selling them.

Every compounder, or dealer in, and every manufacturer of intoxicating liquors, who has in his possession or in any part of the premises occupied by him as such, any adulterated liquor, knowing it to be adulterated, or any deleterious ingredient specified in the second schedule hereto, or added to such schedule by Order of the Governor in Council, for the possession of which he is unable to account to the satisfaction of the court before which the case is tried, shall be deemed knowingly to have exposed for sale adulterated liquor; and shall be liable for the first offence to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding one month, with or without hard labour; and for the second or any succeeding offence, to a penalty not exceeding four hundred dollars, or to imprisonment for a time not exceeding three months with or without hard labour.

Compounders, &c., knowingly having adulterated liquors in possession.

Penalty.

Subsequent offence.

25. This Act shall be read and construed as one Act with the Act passed in the thirty-first year of Her Majesty's reign, and entitled "*An Act respecting the Inland Revenue*," and every clause, matter or thing, in the said Act, whether enacted with special reference to any particular business or trade, or with general reference to the collection of Revenue; or the prevention, detection or punishment of fraud or neglect in relation thereto, shall extend, apply, be construed and have effect with reference to this Act as if they had been enacted with special reference to the matters and things herein enacted.

How this Act shall be construed and applied.
31 V., c. 8.

Every penalty or forfeiture hereby imposed may be enforced and dealt with as if imposed under the said Act, and every compounder, and the apparatus used by him, and the place in which his business is carried on, and the articles made or com-

Penalties, &c., to be enforced as if incurred under that Act

pounded by him, or used in compounding any such article, shall be "subject to excise" under the said Act; and any person acting as a compounder without a license shall be liable to the like penalties and forfeitures as a distiller acting without a license under the said Act; and a license under this Act shall be granted and renewable or forfeited as and for like periods and on like conditions, as a distiller's license under the said Act, subject to any provisions or alterations made by regulations of the Governor in Council as hereinafter provided.

Governor in Council may make regulations for purposes of this Act

The Governor in Council may, from time to time, make such regulations as to him may seem necessary for carrying into effect the provisions of this Act, and for declaring, in cases of doubt, to what extent the provisions of the Act herein cited shall apply to the enforcement of the provisions of this Act; and every such regulation published in the *Canada Gazette* shall have the same effect in law as if contained in this Act.

Commencement, and short title.

26. This Act shall take effect from and after the first day of January, 1875, and may be cited as the "*Inland Revenue Act of 1875.*"

SCHEDULES TO WHICH THIS ACT REFERS.

FIRST SCHEDULE.

Imitations of British or foreign wines, brandy, rum, gin, old tom, Geneva schnapps, British or foreign whiskey, and bitter liqueurs and cordials when containing alcohol.

SECOND SCHEDULE.

Deleterious Ingredients.

Cocculus indicus, chloride of sodium (otherwise common salt), copperas, opium, Indian hemp, strychnine, tobacco, darnel seed, extract of logwood, salts of zinc or lead, alum, and any extract or compound of any of the above ingredients.

4. DEPARTMENT OF JUSTICE.

31 VICT. CAP. 39.

An Act respecting the Department of Justice.

[Assented to 22nd May, 1868.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. There shall be a Department of the Civil Service of Canada, to be called "The Department of Justice" over which The Minister of Justice of Canada, for the time being, appointed by the Governor by Commission under the Great Seal, and who shall, *ex-officio*, be Her Majesty's Attorney-General of Canada, shall preside; and the said Minister of Justice shall hold office during pleasure and shall have the management and direction of the Department of Justice.

Department constituted. Minister of Justice to preside; to be Atty -Gen.

2. The duties of the Minister of Justice shall be as follows : He shall be the official legal adviser of the Governor and the legal Member of Her Majesty's Privy Council for Canada; It shall be his duty to see that the administration of public affairs is in accordance with law; He shall have the superintendence of all matters connected with the administration of Justice in Canada, not within the jurisdiction of the Governments of the Provinces composing the same; He shall advise upon the Legislative Acts and proceedings of each of the Legislatures of the Provinces of Canada, and generally advise the Crown upon all matters of Law referred to him by the Crown; and he shall be charged generally with such other duties as may at any time be assigned by the Governor in Council to the Minister of Justice.

Duties of the Minister; as official legal adviser of the Crown.

As to Legislative Acts.

General duties.

3. The duties of the Attorney-General of Canada shall be as follows : He shall be intrusted with the powers and charged with the duties which belong to the office of the Attorney-General of England by law or usage so far as the same powers and duties are applicable to Canada, and also with the powers and duties which by the laws of the several Provinces belonged to the office of Attorney-General of each Province up to the

His powers and duties as Attorney-General

Advising
Heads of De-
partments.
Instruments
under Great
Seal.
Penitentiaries
and prisons.
Litigation for
the Crown.
General duties.

time when the British North America Act, 1867, came into effect, and which Laws under the provisions of the said Act are to be administered and carried into effect by the Government of the Dominion; He shall advise the Heads of the several Departments of the Government upon all matters of Law connected with such Departments; He shall be charged with the settlement and approval of all instruments issued under the Great Seal of Canada; He shall have the superintendence of Penitentiaries and the Prison System of the Dominion; He shall have the regulation and conduct of all litigation for or against the Crown or any Public Department, in respect of any subjects within the authority or jurisdiction of the Dominion; And he shall be charged generally with such other duties as may at any time be assigned by the Governor in Council to the Attorney-General of Canada.

Appointment.

Duties of
Deputy of the
Minister of
Justice.

4. The Governor may also appoint a "Deputy of the Minister of Justice" who shall be charged, under the Minister of Justice, with the performance of the departmental duties of the Minister of Justice and of the Attorney-General of Canada, and with the control and management of the officers, clerks and servants of the Department, and with such other powers and duties as may be assigned to him by the Governor in Council.

Officers and
Clerks of the
Department.

5. The Governor may also appoint, subject to the Canada Civil Service Act, 1868, such officers, clerks and servants as may be requisite for the proper conduct of the business of the Department, all of whom, as well as the Deputy of the Minister, shall hold office during pleasure.

5. *MILITIA AND DEFENCE.*

31 VICT. CAP. 40.

An Act respecting the Militia and Defence of the Dominion of Canada.

[Assented to 22nd May, 1868.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

NOTE.—The Militia Acts passed by the Province of Canada are not repealed by the above Act, except so far as inconsistent, see section 99 post, but most of their provisions are embodied in it.

COMMAND IN CHIEF.

1. As provided by the fifteenth section of "The British North America Act, 1867," the Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is vested in the Queen, and shall be exercised and administered by Her Majesty personally or by the Governor as Her Representative.

Command in Chief vested in H. M.: how exercised.

DEPARTMENT OF MILITIA AND DEFENCE.

2. There shall be a Minister of Militia and Defence who shall be charged with and be responsible for the administration of Militia Affairs, including all matters involving expenditure, and of the fortifications, gunboats, ordnance, ammunition, arms, armories, stores, munitions and habiliments of war belonging to Canada:

Minister and Department of Militia and Defence, his duties, &c.

2. The Minister of Militia and Defence shall have the initiative in all Militia affairs involving the expenditure of money;

Initiative in money matters.

3. The Governor in Council shall, from time to time, make such orders as may be necessary respecting the duties to be performed by the Minister of Militia and Defence.

Further duties of Minister of Militia and Defence.

3. The Governor may appoint a Deputy of the Minister of Militia and Defence, and such other officers as may be necessary for carrying on the business of the Department; and the duties of such officers shall be prescribed, and their salaries fixed by the Governor in Council.

Deputy and officers and their duties.

MILITIAMEN.

4. The Militia shall consist of all the male inhabitants of Canada, of the age of eighteen years and upwards, and under sixty—not exempted or disqualified by law, and being British subjects by birth or naturalization; but Her Majesty may require all the male inhabitants of the Dominion, capable of bearing arms, to serve in case of a *Levée en masse*:

Militia of whom composed.

Proviso.

5. The male population so liable to serve in the Militia, shall be divided into four classes:

Classes.

The *first* class shall comprise those of the age of eighteen years and upwards, but under thirty years, who are unmarried or widowers without children;

First.

The *second* class shall comprise those of the age of thirty years and upwards, but under forty-five years, who are unmarried, or widowers without children;

Second.

The *third* class shall comprise those of the age of eighteen

Third.

years and upwards, but under forty-five years, who are married, or widowers with children ;

Fourth.

The *fourth* class shall comprise those of the age of forty-five years and upwards, but under sixty years ;

Order for service.

And the above shall be the order in which the male population shall be called upon to serve.

DIVISION OF MILITIA.

Division.

6. The Militia shall be divided into Active and Reserve Militia ;

Active.

The *Active Militia* shall consist of the *Volunteer Militia*, the *Regular Militia*, and the *Marine Militia* :

Volunteer.

The Volunteer Militia shall be composed of Corps raised by voluntary enlistment ;

Regular.

The Regular Militia shall be composed of men who voluntarily enlist to serve in the same ; or of men balloted to serve ; or of men who voluntarily enlist to serve with the balloted men and of men balloted to serve ;

Marine.

The Marine Militia shall be composed of seamen, sailors, and persons whose usual occupation is upon any steam or sailing craft, navigating the waters of the Dominion ;

Reserve.

The *Reserve Militia* shall consist of the whole of the men who are not serving in the Active Militia of the time being.

PERIOD OF SERVICE.

Existing Volunteer Corps continued.

7. Every Volunteer Corps duly authorized previously to and existing on the day on which this Act shall come into force, including the Officers commissioned thereto, shall for the purposes of this Act be held to be existing and shall be continued

Muster thereof, as such, subject to the provisions of this Act ; and within three months,

as such, subject to the provisions of this Act ; and within three months after the day on which this Act shall come into force, all such Corps shall be mustered by their Captains or Commanding Officers, the provisions of this Act shall be explained to them, and such of the men as have not previously given notice of their desire to be discharged, shall take the Oath hereinafter prescribed, and be re-enrolled as Volunteer Militia, and each man shall sign a Muster Roll ; and thereafter such men of any

Men willing to serve to sign a Roll.

Exemptions in favour of such as complete their period of service.

Volunteer Corps, in any Regimental Division, as complete three years continuous service in such Corps, or complete three years including any previous continuous service in the same corps immediately before such muster, or had served three years continuously in such corps immediately before such muster, and are

discharged after giving the required notice, shall not be liable to be balloted for any period of drill or training of the Active Militia, until all the other men in the first, second and third classes of Militiamen in the Company Division within which they reside, have volunteered or been balloted to serve.

The second clause of the above section was temporary, and is therefore printed in italics.

8. No member of a Volunteer Militia Corps, enrolled or re-enrolled under this Act, shall be permitted to retire therefrom in time of peace, without giving to his Commanding Officer six months' notice of his intention.

Notice before retiring.

9. Hereafter the period of service in the Volunteer Militia in time of peace shall be three years.

Period of service.

10. The period of service required of the Regular and Marine Militia in time of peace shall be two years, and thence until other men are taken to serve in their stead, or they are relieved by order of Her Majesty; and such of the men as are enrolled in any Service Company of Regular or Marine Militia, for drill and training during any such two years shall not again be liable to be taken for drill and training, until all the other men in the first, second, and third classes of Militiamen, in the same Company division, have volunteered or been balloted to serve.

And in Regular Militia.

Exemptions in favour of men serving two years.

11. Any Volunteer or Regular Militiaman who shall have completed within the year immediately preceding the day on which this Act shall come into force, the full term of continuous service, according to the tenor of their articles of engagement, in the case of Volunteers, or the period of drill and training for which they were taken, in the case of Regular Militiamen, under the laws then existing in any of the Provinces within this Dominion, shall be entitled to such exemption as is accorded to Active Militiamen who complete any period of drill or training under this Act; save and except that the men who have been balloted under authority of chapter two of the Statutes of the late Province of Canada, passed in the twenty-seventh year of Her Majesty's reign, and of the amendments thereto, shall be liable to serve until replaced by Active Militiamen organized under this Act, but shall not thereby be exempt from liability, if balloted to serve in any quota of Militiamen required at any time to be organized under this Act.

And of Volunteers or Regular Militiamen, having already served their period.

Exception, as to men balloted under Act of Prov. of Canada, 27 V. c. 2.

MILITARY DIVISIONS.

12. Her Majesty may divide Canada into *nine* Military Districts, viz: one comprising the Province of Nova Scotia, one comprising the Province of New Brunswick, three in the Province of Quebec, and four in the Province of Ontario.

Military Districts.

By 34 V. c. 17, sec. 2, page 448 post, Manitoba and British

Columbia are each formed into a Military District as if they had been mentioned in this section, and as if the word "eleven" had been used instead of the word "nine" in this section and elsewhere in this Act as the number of Military Districts; And by 37 V. c. 35, sec. 3, page 451 post, the Province of Prince Edward Island is formed into a Military District as if it had been mentioned in this section and as if the word "twelve" had been used in this section and elsewhere in this Act instead of the word "nine" as the number of Military Districts.

Number and limits may be altered by H. M.

13. Her Majesty may alter the Districts, specified in the next preceding section, and increase or diminish the number thereof as may be deemed necessary; and may name the territorial divisions which shall form each of the three Military Districts of Quebec, and each of the four Military Districts of Ontario, and may alter the same from time to time.

Regimental, Brigade and Company Divisions.

Power to alter, &c.

Proviso.

14. Her Majesty may, from time to time, divide each Military District into such number of Regimental and Brigade Divisions as may be deemed expedient, and may subdivide such Regimental Divisions into Company Divisions; and may, from time to time, alter such Divisions or increase or diminish the number thereof; but all Military Districts and Divisions existing on the day on which this Act shall come into force shall be continued as such, until altered under the provisions of this Act.

ENROLMENT.

Through what officers orders, &c., relating to enrolment shall be sent, &c., for Regimental Divisions.

15. For each Regimental Division there shall be appointed from the residents therein, one Lieutenant-Colonel and two Majors of Reserve Militia; but such Officers may be appointed from among non-residents in the Regimental Division in exceptional cases in which it shall appear to Her Majesty that such appointments will be more conducive to the interests of the Militia service; All orders and reports, relating to the enrolment at any time of Militiamen within the Regimental Division, shall be sent to, and received through and be acted on by the Lieutenant-Colonel, or in his absence through the senior Major of the Division, for the time being, who shall act instead of the Lieutenant-Colonel during such absence;

And for Company Divisions.

2. And for each Company Division there shall be appointed from the residents therein, one Captain, one Lieutenant, and one Ensign of Reserve Militia; and all orders and reports relating to the enrolment at any time of Militiamen within the Company Division shall be sent to, and acted on by the Captain; or in his absence they shall be sent to the next senior officer of the Company Division, for the time being, who shall act instead of the Captain during such absence.

By 37 V. c. 35, sec. 5, page 451 post, this sub-section was amended, so as to allow appointments for Company Divisions in

any city or town to be made from the residents of the Regimental Division within such city or town.

16. The enrolment of the Militia shall be made in each Company Division by the Captain thereof, with the assistance of the officers and non-commissioned officers of the Company Division;—and it shall be the duty of the Captain, and, under his orders, of the other officers and non-commissioned officers of the Company Division, by actual enquiry at each house therein, and by every other means in their power, to make and complete, on or before the twenty-eighth day of February, in the year *one thousand eight hundred and fifty-nine*, and on or before the twenty-eighth day of February in each alternate year thereafter, a corrected roll, in duplicate, of the names of all the men in the different classes resident within the Company Division, specifying separately those who are seamen or sailors, or persons engaged in or upon any steam or sailing craft upon the lakes or waters of the Dominion, those who are *bonâ fide* enrolled members of any Company of Volunteer Militia, and those who, after the day on which this Act shall come into force, shall have completed such a term of service in the Militia as will by law exempt them until they are again required in their turn to serve :

How, when and by whom the enrolment shall be made.

What it must shew.

2. One copy of such roll is to be retained by the Captain, and the other to be forwarded, on or before the first day of April following the taking of the enrolment, to the Lieutenant-Colonel of the Regimental Division, which last-named officer shall cause a copy of all the rolls of Militiamen in the several Company Divisions within the Regimental Division to be forwarded without delay to the *Adjutant-General of Militia*; but if from any cause the duties prescribed by this section cannot in any particular case be carried into effect within the time specified, a special Report of the facts relating to the delay shall be made to the *Adjutant-General*, who shall, without delay, fix another period within which the enrolment shall be completed and the rolls be forwarded ;

To be made in duplicate.

One copy to *Adjt.-General*.

Provision if Roll be not made in time.

3. The enrolment shall be held to be an embodiment of all the militiamen enrolled, and shall render them liable to serve under the provisions of this Act, unless exempt by law.

Roll to be embodiment.

In line 9 of this section :—For “one thousand eight hundred and fifty-nine,” read “one thousand eight hundred and sixty-nine.” This error of the Press does not occur in the French Version.

By 37 V. c. 35, sec. 1, page 451 post, the words “in every fourth year after the twenty-eighth day of February in the year one thousand eight hundred and seventy-three” are substituted for the words “in each alternate year thereafter” (in the tenth line of the above section) subject to further provisions.

By 38 V. c. 8, sec. 3, page 452 post, the words "Officer for the time being commanding the Militia," are substituted for "Adjutant-General of Militia," in the seventh line of sub-section two of this section, and for "Adjutant-General" in the eleventh line of the said sub-section.

EXEMPTIONS.

Persons exempt from enrolment and from serving at any time.

17. The following persons only, between the ages of eighteen and sixty years, shall be exempt from enrolment, and from actual service at any time :

The Judges of all the Courts of Law or Equity in the Dominion of Canada ;

The Clergy and Ministers of all religious denominations ;

The Professors in any College or University and all Teachers in religious orders ;

The Warden, Keepers and Guards of the Penitentiaries, and the Officers, Keepers and Guards of all public Lunatic Asylums ;

Persons disabled by bodily infirmity ;

The only son of a widow, being her only support ;

Exempt except in special cases, but enrolled.

2. And the following, though enrolled, shall be exempt from actual service at any time except in case of war, invasion or insurrection :

Half-pay and Retired Officers of Her Majesty's Army or Navy ;

Seafaring Men and Sailors actually employed in their calling ;

Pilots and Apprentice Pilots during the season of navigation ;

Masters of Public and Common Schools actually engaged in teaching ;

By 31 V. c. 5, sec. 4, page 22 ante, no officer or person regularly employed in the collection and management of the Revenue, or in accounting for the same, shall, while he remains such officer, or so employed, be compelled to serve in the militia.

Quakers, &c.

Any person bearing a certificate from the Society of Quakers, Menonists or Tunkers, or any inhabitant of Canada, of any religious denomination, otherwise subject to Military Duty, but who, from the doctrines of his Religion, is averse to bearing arms and refuses personal Military Service, shall be exempt from such service when balloted in time of peace, or war, upon

Conditions.

such conditions and under such regulations as the Governor in Council may, from time to time, prescribe;

3. No person shall have the benefit of exemption, unless he has, at least one month before he claims such benefit, filed with the Captain of the Company Division within the limits whereof he resides, his *Affidavit* made before some Magistrate (or affirmation in cases where persons are allowed to affirm) of the facts on which he rests his claim; Exemption must be claimed.

4. Whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall be upon the claimant; Proof of Exemption.

5. Exemption shall not prevent any person from serving, if he desires it and is not disabled by bodily infirmity. Not to prevent voluntary service.

ACTIVE MILITIA.

18. The Active Militia Force shall consist of Troops of Cavalry, Field Batteries of Artillery, Companies of Mounted Infantry, Companies of Engineers, Brigades and Batteries of Garrison Artillery, Battalions and Companies of Infantry, and Naval and Marine Corps, in such proportions as Her Majesty shall appoint; and the strength of each such Troop, Battery, Battalion, Company or Corps, shall be regulated, and officers appointed thereto, from time to time, by Her Majesty; Corps of which the Active Militia shall consist.

2. Her Majesty may make regulations for the enrolment of such horses as may be necessary for the purposes of Field Batteries of Artillery and Troops of Cavalry; Enrolling horses.

3. A military train, and a medical staff, as well as commissariat, hospital and ambulance Corps, may be formed whenever the exigencies of the service may require the same, at such places and in such manner, and of such strength, including the proper Officers, as Her Majesty may direct. Other corps when required.

19. Every Active Militiaman shall sign a service Roll in which the conditions of his service shall be stated; and every Officer of Militia, on appointment, and every non-commissioned officer and man, on enrolment, shall take the oath following: Signing Roll and taking oath of Allegiance.

“I, A. B., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty.” Form of oath.

Which oath may be administered by the Commanding Officer of the Corps, he having previously taken the oath before a Justice of the Peace. How administered.

20. Her Majesty may accept the services of Corps of Volunteers, under such regulations as may from time to time be made. Corps of Volunteers.

Articles of engagement of Volunteer Corps: they must be kept at full strength, otherwise liable to be disbanded, &c.

21. Any Volunteer Corps may enter into any articles of engagement and make Regulations not inconsistent with this Act, to be approved by Her Majesty; but the Commanding Officers of all Corps of Volunteer Militia shall be responsible that their Corps respectively are kept up to the full strength; and in the event of failure of any Corps to maintain such complement of men for each respectively as Her Majesty may consider necessary for its efficiency or of any Corps becoming inefficient, Her Majesty may disband such Corps; and may also disband any Corps of Volunteer Militia if considered necessary to do so.

BALLOTING.

Each Company in a Regimental Division to furnish its quota;

Company divisions to receive credit for men furnished.

Men drafted to be appointed to Corps, &c.

22. At any time when Militiamen are required to be drafted in any Regimental Division, each Company Division therein shall, subject to the provisions of the two sections immediately following the present section, contribute its quota according to the number of Militiamen on the rolls and liable to serve, of the class, or classes, from which the men are to be taken; and when Volunteer, or Regular, or Marine Militiamen, are accepted or taken or balloted to serve in any quota, the Company Division or Divisions furnishing the men shall receive credit therefor; and the Active Militiamen taken, or accepted, and enrolled for service, from time to time, in any Company or Regimental Division, shall be attached or appointed to such Companies, Corps, or Battalions of the Active Militia as Her Majesty may order:

If a Volunteer Corps is disbanded.

Service Companies.

2. When a Volunteer Corps in any Regimental Division for any cause ceases to exist, Her Majesty may make good the quota of that Division by the organization of Regular Militiamen to replace such Corps; and when Companies of Regular Militiamen are taken or balloted in any Regimental Division, they shall be called the Service Companies thereof;

Filling vacancies in Service Companies.

3. When by reason of death or removal, vacancies occur in any Service Company of Militia organized under this Act, such vacancies shall be filled by other men to be drawn from the Reserve Militia, in the same manner as the men for that Corps were originally supplied.

Provisions for balloting if the number of Volunteers are not sufficient for the quota.

23. When Active Militiamen are required to be organized at any time, either for drill or for actual service, and enough men do not volunteer in any Company Division to complete the quota required from that division, the men enrolled in the first class and liable to serve shall be first balloted, and if the number of men required to be balloted, is greater than the whole number of men in the first class, then the number requisite to make up the deficiency shall be taken from those in the second class, and if more men than the whole number in the first and second classes are still required, then the number requisite to make up the deficiency shall be taken from the third class, and in like manner, if more men than are in the first, second, and third classes, are still required, then the number requisite to make up the defi-

ciency shall be taken from the fourth class: but at no time shall more than one son belonging to the same family residing in the same house, if there be more than one inscribed on the Militia Roll, be drawn, unless the number of names so inscribed be insufficient to complete the required proportion of service men.

Proviso: as to sons in one family.

2. Any man not taken for service for the time being in any Corps organized in the Regimental Division in which he resides, may volunteer to serve in any Corps in any Regimental Division contiguous thereto, and in such case the Company Division in which he resides, shall have credit for such volunteer; and the man shall, on completing his full period of service, be entitled to the same exemption in his Company Division, as though he had served with men raised therein for the same period.

Men not taken for service may volunteer in adjacent Regimental Division

Exemption on completing his service.

24. When any Company Division shall have furnished more men than its quota, as compared with other Company Divisions in the same Regimental Division, such Company Division shall not again be called upon in time of peace for more men, until the other Company Divisions have supplied men to equalize the proportion for each, according to the number of names inscribed on the Militia Rolls thereof respectively.

When a Company Division has furnished more than its quota.

25. The Governor in Council may from time to time make regulations for taking the enrolment and ballot; for fixing the day on which the taking of the enrolment shall be commenced in each of the several Military Districts respectively; for notifying the men liable to be taken, or those balloted in any Company Division for service in any quota; for finally deciding claims of applicants for exemption, and for the administration of Oaths before Justices of the Peace or the Commanding Officers of Corps, to ascertain any facts in reference to such claim of exemption; for medical examinations; and for the discharge of such men as are unfit to serve and relating to every other matter and thing not inconsistent with this Act, and necessary to be done, in the enrolling, balloting, warning and bringing into service, of such numbers of the Volunteer, the Regular, the Marine, or the Reserve Militiamen in any Company Division as are required at any time; but any Militiaman balloted and notified for service may, at any time, be exempt, until again required in his turn to serve, by furnishing an acceptable substitute, on or before the day fixed for his appearance, or, in time of peace, by forthwith paying to the Captain of the Company Division within which he resides, the sum of thirty dollars, which said sum, shall by the Captain be paid to another man who is approved, and is willing to serve as substitute for such balloted man; but, if during any period of service, any man who is serving in the Active Militia as a substitute for another, shall become liable to service in his own person, he shall be taken for such service, and his place as sub-

Regulations respecting ballot, enrolment, &c. to be made by Governor in Council.

Exemption on providing a substitute, on payment of \$30.

If the substitute is drawn his principal must supply his place.

stitute shall be supplied by the Militiaman in whose stead he was serving.

Service man
at aining 45
years.

26. Any Active Militiaman who may, during any period of service, attain the age of thirty years or forty-five years, according to his class, shall notwithstanding be required to complete the full period for which he volunteered or was balloted to serve.

27. By 36 V. c. 46, sec. 1, page 449 post, this section was amended by substituting the words printed in small type for the first portion, allowing the remainder to stand unaltered.

By whom and
on what oc-
casions the
Active Militia
may be called
out.

“The Active Militia, or any corps thereof, shall be liable to be called out for active service with their arms and ammunition, in aid of the civil power in any case in which a riot, disturbance of the peace or other emergency requiring such service occurs, or is, in the opinion of the civil authorities hereinafter mentioned, anticipated as likely to occur, and, (in either case) to be beyond the powers of the civil authorities to suppress, or to prevent or deal with, whether such riot, disturbance or other emergency occurs, or is so anticipated within or without the municipality in which such corps is raised or organized: and it shall be the duty of the Senior Officer of the Active Militia present at any locality to call out the same or any portion thereof as he considers necessary for the purpose of preventing or suppressing any such actual or anticipated riot or disturbance, or for the purpose of meeting and dealing with any such emergency as aforesaid, when thereunto required in writing by the Chairman or Custos of the Quarter Sessions of the Peace, or by any three magistrates, of whom the Warden, Mayor or other head of the municipality or county in which such riot, disturbance or other emergency occurs, or is anticipated as aforesaid, may be one; and to obey such instructions as may be lawfully given him by any magistrate in regard to the suppression of any such actual riot or disturbance, or in regard to the anticipation of such riot, disturbance or other emergency, or to the suppression of the same, or to the aid to be given to the civil power in case of any such riot, disturbance or other emergency; and every such requisition in writing as aforesaid shall express on the face thereof, the actual occurrence of a riot, disturbance, or emergency, or the anticipation thereof, requiring such service of the Active Militia in aid of the civil power for the suppression thereof: and every Officer, non-commissioned officer and man of such Active Militia or any portion thereof, shall on every such occasion, obey the orders of his Commanding Officer: and the officers and men, when so called out, shall, without any further or other appointment, and without taking any oath of office, be special constables, and shall be considered to act as such so long as they remain so called out; but they shall act only as a military body, and shall be individually liable to obey the orders of their Military Commanding Officer only.

Requisition
must be in
writing.

They must
obey their
Commanding
Officer.

Officers and
men to be
special con-
stables; but
to obey their
Military
Commanding
Officer only.

To be paid
by munic-
ipality, and at
what rates.

“And they shall, when so employed, receive from the Municipality in which their services are required, the following rates of pay, that is to say: Officers, the same pay as that of Officers of corresponding rank in Her Majesty's Service, with an additional sum to each mounted Officer of two dollars per day, and non-commissioned Officers and Privates the sum of one dollar each per day with an additional sum of one dollar per day for each horse actually and necessarily used or employed on such occasion, and they shall be also provided with proper lodging by such Municipality;—and the said sums, and the value of

Recovery if
not paid.

such lodging, if not furnished by the Municipality, may be recovered from it by the Officer Commanding the Corps, in his own name, and when received or recovered shall be paid over to the Officers and men entitled thereto.

ADJUTANT-GENERAL.

28. *This section was repealed by 38 V. c. 8, sec. 1, page 452 post, and the following substituted.:*

“There shall be appointed to command the Militia of the Dominion of Canada, an officer holding the rank of Colonel, or superior rank there- to, in Her Majesty's regular army, who shall be charged, under the orders of Her Majesty, with the military command and discipline of the Militia, and who, while holding such appointment, shall have the rank of Major General in the Militia of Canada, and shall be paid at the rate of four thousand dollars per annum in full of all pay and allowances.”

Qualification and appointment of officer commanding the militia, rank and pay.

29. *This section was repealed by 38 V. c. 8, sec. 1, page 452 post, and the following substituted.:*

“**29.** There shall be an Adjutant-General of Militia at Head Quarters, who shall have the rank of Colonel in the Militia, and shall be paid at the rate of twenty-six hundred dollars per annum.”

Adjutant-General at head-quarters, rank and pay.

“2. The Governor in Council shall from time to time, make such orders as may be necessary respecting the duties to be performed by the Officer commanding the Militia, by the Adjutant-General, and by the officers of the militia generally.”

Duties of militia officers.

DISTRICT STAFF.

30. In and for each of the nine Military Districts mentioned in section twelve of this Act, there shall be appointed one Deputy Adjutant-General of Militia, who shall have the rank of Lieutenant-Colonel, and who shall command the Militia in his District; and he shall be paid at the rate of one thousand two hundred dollars per annum.”

D. A. G. in each Military District, Pay.

See note to section 12 (page 423 ante) as to the number of Military Districts.

2. There shall also be appointed in each of the Military Districts aforesaid such Staff Officers and such other Officers as may be necessary; and the salaries of such Officers shall be fixed by the Governor in Council.”

Staff and other officers. Pay.

OFFICERS.

31. Commissions of Officers in the Militia shall be granted by Her Majesty during pleasure, and all non-commissioned officers in the Militia shall be appointed by the Officer commanding the Corps or Battalion to which they belong, and shall hold their rank during pleasure.”

Commissions: non-commissioned Officers.

This sub-section was repealed by 38 V. c. 8, sec. 2, page 452 post, and the following substituted.

Commissions need not be enregistered in full; exception.

Commissions of officers in the Militia, except the Officer commanding the Militia, the Adjutant-General and Deputy Adjutants-General, need not be enregistered at full length, but a record of them shall be kept in the office of the Adjutant-General.

Officers holding commissions when this Act passes.

32. Officers holding Commissions in the Militia in any of the Provinces of the Dominion, on the day on which this Act shall come into force, may be placed on the retired list, with or without a step of honorary rank to those below the rank of Lieutenant-Colonel; and Her Majesty may appoint officers from the retired list to Commissions in the Militia; but no Officer from the retired list shall be bound to serve in the Militia in a lower grade than that of his retired rank.

Proviso.

Conditions of appointment as regards qualification.

Certificates from Schools of Military Instruction, &c.

Boards for examination.

33. No person shall be appointed an Officer in the Active Militia, except provisionally, until he has obtained a certificate of fitness from one of the Military Schools of the Dominion or a Board of Officers of the Active Militia, to be constituted as Her Majesty may appoint; or unless he had obtained a certificate from one of the Schools of Military Instruction heretofore established in the late Province of Canada, or from any Board of Officers which had been appointed for that purpose in any of the Provinces of the Dominion; and Her Majesty may prescribe conditions as to the qualification of Officers of different grades, by General Order; and may order the assembling of such Boards, as often as may be expedient; and may dispense with the conditions of this section in the case of men who have served as officers or non-commissioned officers in Her Majesty's regular army:

Rank limited in peace time.

Proviso.

2. In time of peace no person except the Adjutant General shall hold higher rank in the Militia than that of Lieutenant-Colonel, but officers at the time when this Act shall come into force, holding the rank of Colonel, shall retain the same;

And when called out.

3. Her Majesty may, however, when the Militia is called out, and the exigencies of the service so require, appoint therein Colonels and other Officers of superior rank, in no case to exceed that of Major General.

By 34 V. c. 17, sec. 3, page 448 post, sub-sections two and three of the above section are amended so as to allow Her Majesty whenever in her opinion the efficiency of the service requires it to appoint Colonels and other officers of superior rank in the Militia not to exceed that of Major-General.

Staff Officers.

34. Her Majesty may appoint Staff Officers of the Militia with such rank as from time to time may be found requisite or necessary for the efficiency of the Militia service; and such Staff Officers shall have such rank and authority in the Militia as are held relatively in Her Majesty's service, and their duties shall be such as may from time to time be prescribed.

35. The relative rank and authority of Officers in the Militia of Canada, shall be the same as the relative rank and authority of Officers in Her Majesty's regular army; and any Body of Militia assembled on parade, shall be commanded by the Officer highest in rank then present, on duty and in uniform, or the senior of two or more officers of equal rank; provided that no Officer whose rank is provisional only shall under any circumstances command an Officer of the same grade whose rank is substantive.

Relative rank
of officers.

Proviso.

36. Officers of Her Majesty's Regular Army shall always be reckoned senior to Militia Officers of the same rank, whatever be the dates of their respective Commissions;—and Colonels appointed by Commission signed by the Commander of Her Majesty's Regular Forces in Canada, shall command Colonels of Militia, whatever be the dates of their respective Commissions.

Officers of H.
M. army to
command
Militia officers
of like rank.

CLOTHING, AND ARMS AND ACCOUTREMENTS.

37. Officers shall provide their own uniforms, arms and accoutrements; and the arms and accoutrements of all Officers on the Militia Staff, and of the Officers and men of the Active Militia, and the horses used by them as such, shall be exempt from seizure in execution and from distress and assessment; and the Officers, non-commissioned officers and men of the Active Militia, shall be exempt from serving as Jurors or Constables; and a certificate, under the head of the Commanding Officer of any such Corps, shall be sufficient evidence of the service in his Corps of any Officer, non-commissioned officer or man.

Officers to
furnish their
own.

Exemptions
from seizure.

Exemptions of
Active Militia.

38. The arms and accoutrements of the Officers and men of the Active Militia shall be such as Her Majesty shall from time to time direct; and no such arms and accoutrements of the men shall be left in their possession except by special authority.

Quality of
arms, &c.

39. The value of all such articles of public property as may have become deficient or damaged, while in possession of any Corps, otherwise than through fair wear and tear or unavoidable accident, may be recovered by the Minister of Militia and Defence or by any other person authorized by him, from the Officer in command of such Corps; and the Officer commanding any Corps shall have power to recover the value of such articles of public property as have become deficient, or damaged while in possession of his Corps, otherwise than through fair wear and tear or unavoidable accident, from the man or men who may be responsible for the same.

Responsibility
for damages.

Recovery of
damages.

40. Such of the several Corps of Active Militia heretofore organized or hereafter to be organized, as may, for that purpose, be named and specified, shall be supplied with uniform

Uniform
clothing.

Renewal. clothing of such one and similar colour, pattern and design, as may be ordered for each arm of the service designated in this Act; and if necessary, such uniform clothing may be replaced in every successive period of five years from the original issue: and the said uniform clothing shall be delivered to the Officer

Delivery. commanding the Corps, to be by him delivered to the non-commissioned officers and privates, on such conditions and upon such security as may be directed; and Her Majesty may, from time to time, make such regulations in respect to the uniform clothing, and may prescribe penalties for any infraction of such regulations as may be deemed necessary or expedient; but nothing herein contained shall prevent the re-supplying of clothing within the period aforesaid in special cases.

Regulations.

Proviso.

Arms and accoutrements. **41.** The several Corps of Militia shall be furnished with arms and accoutrements, and the same shall be kept in public armouries, wherever there are such; and where there are no such public armouries, and until the same are provided, the Officer commanding each Corps shall himself actually keep the arms and accoutrements in a good and sufficient building, provided with suitable arm racks and provision for the care thereof, and shall be personally responsible for such arms and accoutrements; and the Officer commanding any such Corps may, in the discretion of the Governor in Council, be allowed annually, such sum for the care of such arms and accoutrements as may appear proper to removal.

Safe keeping.

Allowance for care of.

Regulations as to removal.

for the same; and no arms or accoutrements shall be taken or removed from any such public armoury, or from the care of such Commanding Officer, except under such regulations as may be made in respect to the same by Her Majesty.

Militiaman leaving Canada to return clothing, &c. **42.** Any man serving in the Active Militia who may require to leave Canada shall first return to the Captain of his Company all articles of public clothing, or public property which he may have had in his possession, and shall obtain a written discharge from the Commanding Officer of his Corps; and any Militiaman who may leave Canada, with any articles of public clothing or other public property in his possession, shall be guilty of embezzlement, and may be tried for the same at any subsequent time; and a record in the books of his corps of his having so received and not having returned any articles of public clothing or other public property, shall be evidence of possession; and he shall be entitled to quittance by certificate and to see it recorded in the books of his corps on returning such articles.

Penalty.

Proof.

Receipt on delivery.

When only to appear in uniform. **43.** No Corps of the Active Militia, and no non-commissioned officer or private shall at any time appear in uniform or armed or accoutred, except when on duty or *bonâ fide* at parade or drill or at target practice, or at Reviews or on Field-days or Inspections, or by order of the Commanding officer.

DRILL AND TRAINING.

40,000 Militiamen to be

44. In time of peace there shall be trained and drilled an-

nually, for such periods as are authorized by this Act, and under such regulations as Her Majesty may, from time to time prescribe, the Officers of Militia mentioned in the three following sections, and *forty thousand* Active Militiamen; and Her Majesty shall from time to time by General Orders, designate the Regimental Divisions required to furnish the men for purposes of such training and drill: but in any Regimental Division where, in proportion to the number of names inscribed on the Militia Rolls, as compared with other Regimental Divisions, Volunteers are organized and perform the regulated drills for Volunteers, Her Majesty may dispense with the annual training and drill of such a number of Regular Militia as, with the Volunteers, are in excess of the quota which would otherwise be required in that Regimental Division.

trained yearly
in time of
peace: how
selected.

Proviso: as to
Regimental
divisions in
which there are
Volunteers.

By 34 V. c. 17, sec. 4, page 448 post, this section is amended by substituting "Forty-five thousand" for "Forty Thousand," subject to further provisions.

Volunteer Militia.

45. Her Majesty may order the Officers, non-commissioned officers, and privates of the several Corps of the Volunteer Militia or any portion thereof to drill for a period not exceeding sixteen days nor less than eight days in each year: and for each day's drill of three hours, every officer, non-commissioned officer and private shall receive fifty cents; and the non-commissioned officers and privates of mounted Corps, shall receive for each day's drill of three hours, seventy-five cents for each horse that has taken part in such drill.

Drilling Officers
and men of
Volunteers.

Pay.

Horses.

Regular Militia.

46. Her Majesty may order to assemble, for a period not exceeding sixteen nor less than eight days in each year, all the Officers, non-commissioned officers and privates of the Service Companies of the Regular Militia required for service, and the Officers of the Reserve Militia, or any portion thereof, at such times and places as may be thought proper, for drill and exercise; and for each day's drill of three hours every Officer, non-commissioned officer and private shall receive fifty cents; and the non-commissioned officers and privates of mounted Corps, shall receive for each day's drill of three hours, seventy-five cents for each horse that has taken part in such drill.

The same of
Service Militia.

Pay.

Horses.

Marine Militia.

47. Her Majesty may order the Officers and men of the Marine Militia, or any portion thereof, to be trained and drilled for a period not exceeding sixteen days, nor less than eight days in each year, at such times and places, and in such manner, as may be thought proper; and for each day's drill every Officer and Man shall receive fifty cents.

The same of
Marine Militia.

Pay.

Payments,
conditions of.

48. Payments for drill, shall be made only upon proof of compliance with such regulations touching such drill, and the efficiency of the several Corps, as Her Majesty may order; and any Officer, non-commissioned officer or private, absent from drill, shall forfeit his pay therefor.

Drill Instruc-
tors.

49. Her Majesty may, from time to time, appoint competent persons to instruct and drill the Militia, and may award such remuneration therefor as the Governor in Council may order.

Pay.

Occasional
drill without
pay.

50. Such of the Officers and men of any Corps of the Active Militia as reside within two miles of the place appointed for drill, may assemble or be ordered out by the officer commanding it for drill or exercise, at other times than when performing the annual drills, under regulations to be approved by Her Majesty, and without receiving any pay therefor.

Dispensing
with drill and
training, in
any year.

51. Her Majesty may, by any General Order, dispense with the drill or training of any Corps or part of a Corps of the Active Militia, either in any particular year or until further order, and may, in like manner, again direct such drill and training, or either of them, to be resumed if it may seem fit, and any such Order shall have the force of law according to the terms thereof; and Her Majesty may also dispense with the formation, or drill and training, of service Companies of the Regular Militia in remote portions of Districts.

Remote parts
of districts.

INSPECTIONS.

Inspections.

52. The several Corps of the Active Militia shall be subject to such inspections, from time to time as Her Majesty may direct.

RIFLE RANGES AND DRILL SHEDS.

Rifle Ranges,
&c.

Land.

Practice.

Penalties.

Inspection:
compensation
for damages.

53. At, or as near as may be to the head-quarters of every Regimental Division, there may be provided a Rifle Range with suitable butts, targets, and other necessary appliances; and Her Majesty may order the appropriation of such land as may be necessary for the same at a proper valuation, and may stop, at such time as may be necessary during the target practice of the Active Militia, the traffic on any roads not being Mail Roads that may cross the line of fire, and may make such other regulations, for conducting target practice and registering the results thereof, and for the safety of the public, as may be necessary, and may impose penalties for wilful damage to any such butts, targets and appliances; and all such Ranges shall be subject to inspection and approval before being used, and the owners of private property shall be compensated for any damage that may accrue to their respective properties from the use of any such Rifle Range.

54. The Governor in Council may, from time to time, make regulations relating to the conditions upon which Government aid shall be granted towards the construction, by the local authorities, of Drill Sheds and armouries, in any Regimental Division, and the use thereof by the militia.

Aid to Local
authorities for
Drill Sheds,
&c.

SCHOOLS OF MILITARY INSTRUCTION.

55. For the purpose of enabling Officers of the Militia, or candidates for Commissions or promotion in the Militia, to perfect themselves in a knowledge of their military duties, drill and discipline, there may be established Schools of Military Instruction in each Province of the Dominion, and for that purpose arrangements may be entered into with the Officer commanding Her Majesty's Forces in British North America, for the best means of effecting the same in connection with any Regiment or Regiments of Her Majesty's Forces or otherwise; and all necessary Rules and Regulations, as to the terms upon which such instruction may be compensated for, and generally for the advancement of Military Education amongst the Officers and candidates for Commissions as aforesaid, may be made by the Governor in Council.

To be estab-
lished in each
Province.

Regulations
by Governor
in Council.

56. Her Majesty shall, from time to time, from among the applicants for such purpose, select such persons in each Province of the Dominion as may be fit to attend such schools of Military Instruction, and if necessary remove them; and the allowances to be paid to such persons during their stay at the school, and the period for which they shall undergo such instruction, shall be regulated by the Governor in Council; and every person who shall enter upon the course of Military Instruction as hereinbefore provided, shall thereupon and thenceforth, and for the period prescribed in such regulations, upon his signing a Roll of Entry for such instruction, be subject to the Queen's Rules and Regulations, the Mutiny Act and the Rules and Articles of War, and to such other Orders, Rules and regulations, of whatever nature or kind, to which Her Majesty's Troops are subject.

Selection of
pupils.

Allowance.

Obligations
of pupils:
signing Roll.

57. Her Majesty may, from time to time, order any persons who have obtained final certificates in any School of Military Instruction and whether the same be Commissioned Officers or not, to attend a Camp or Camps of Instruction at such time and place in Canada, and for such period as may for such purpose be prescribed, and Her Majesty may make all necessary rules and regulations for the command, and discipline and good management of such Camp or Camps and for the mode of instruction thereat; and the allowances to be paid to such persons during their stay at the same shall be fixed by the Governor in Council; and every person who shall report himself at such Camp or Camps, and shall sign a Roll of Entry thereat, shall thereupon and thenceforth and for the duration of such

Camps of
instruction.

Regulations.

Allowances

Signing Roll.

Subject to Mu-
tiny Act, &c.

Camp or Camps, be subject to the Queen's Rules and Regulations, the Mutiny Act and the Rules and Articles of War, and to such other Orders, Rules and Regulations, of whatever nature or kind to which Her Majesty's Troops are subject.

RIFLE AND DRILL ASSOCIATIONS.

Associations
may be sanc-
tioned.

Proviso.

58. Her Majesty may sanction the organization of Rifle Associations, and of associations for purposes of Drill and of independent Companies of Infantry composed of professors, masters or pupils of Universities, Schools or other public Institutions, or of persons engaged in or about the same, or of Militia Officers, or of men on the Militia Rolls, under such regulations as may, from time to time, be approved by Her Majesty; but such Associations or Companies shall not be provided with any clothing or allowance therefor.

MILITARY INSTRUCTION IN SCHOOLS AND COLLEGES.

Arms &c.,
for pupils.

59. There shall be furnished to every Normal School, University, College or School in Canada, in which there shall be instituted classes of instruction in Military Drill and exercises under regulations prescribed by Her Majesty, arms and accoutrements necessary for the instruction of the pupils thereof over the age of twelve years.

CALLING OUT THE MILITIA.

Commanding
Officer may
call out on
sudden emer-
gencies.

60. The Officer commanding any Military District or Division, or the Officer commanding any Corps of Active Militia, may, upon any sudden emergency of invasion or insurrection, or imminent danger of either, call out the whole or any part of the Militia within his command, until the pleasure of Her Majesty is known, and the Militia so called out by their Commanding Officer shall immediately obey all such orders as he may give, and march to such place within or without the District or Division as he may direct.

H. M. may call
out in case of
war, &c.

Period of
service.

61. Her Majesty may call out the Militia or any part thereof for actual service, either within or without the Dominion, at any time, whenever it appears advisable so to do by reason of war, invasion or insurrection, or danger of any of them; and the Militiamen, when so called out for actual service, shall continue to serve for at least one year from the date of their being called out for actual service, if required so to do, or for any longer period which Her Majesty may appoint:

Militiamen for
reliefs.

2. Her Majesty may, from time to time, direct the furnishing by any Regimental Division, of such number of Militiamen as may be required either for reliefs, or to fill vacancies in Corps on actual service;

3. Whenever the Militia or any part thereof are called out for actual service by reason of war, invasion or insurrection, Her Majesty may place them under the orders of the Commander of Her Regular Forces in Canada.

Militia called may be commanded by Commander of H. M. Forces.

62. In time of war no man shall be required to serve in the field continuously for a longer period than one year; but any man who volunteers to serve for the war or for any longer period than one year shall be compelled to fulfil his engagement; but Her Majesty may, in cases of unavoidable necessity (of which necessity Her Majesty shall be the sole judge), call upon any Militiaman to continue to serve beyond his period of general service, or voluntary engagement, or beyond his one year's service in the field, for any period not exceeding six months.

Period of service.

May be extended in case of necessity.

63. Whenever the Militia or any part, or Corps, thereof shall be called out for actual service, the Officers, non-commissioned officers and men so called out shall be paid at such rates of daily pay as are paid to Officers, non-commissioned officers and men of the relative and corresponding grade in Her Majesty's Service, or such other rates as may for the time being be fixed by the Governor in Council.

Pay of Militia when called out.

64. The Active Militia shall be subject to the Queen's Regulations and Orders for the army; and every Officer and man of the Militia shall, from the time of being called out for actual service, and also during the period of annual drill or training under the provisions of this Act, and also during any drill or parade of his corps at which he may be present in the ranks or as a spectator, and also while wearing the uniform of his Corps, be subject to the Rules and Articles of War and to the Act for punishing mutiny and desertion, and all other laws then applicable to Her Majesty's Troops in Canada, and not inconsistent with this Act; except that no man shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws; and except also that Her Majesty may direct that any provisions of the said laws or regulations shall not apply to the Militia Force; but any Officer, non-commissioned officer or man charged with any offence committed while serving in the Militia, shall be held liable to be tried by Court Martial, and if convicted to be punished therefor, within six months after his discharge from the Militia or after the Corps to which he belongs or belonged is relieved from actual service, notwithstanding that he shall have been so discharged from the Active Militia, or that the Corps to which he belonged shall have been so relieved from actual service: and any Officer, non-commissioned officer or private of the Militia may be tried for the crime of desertion at any time, without reference to the length of time which may have elapsed since his desertion.

Active Militia to be subject to H. M.'s Regulations and to articles of War when called out, &c.

Exception.

Exception.

Trial by Court Martial after discharge or relief.

Trial for desertion.

65. It shall be the duty of the Captain or other Officer com-

Keeping Rolls

of each Com-
pany.

Duty of Com-
manding Offi-
cer and of Ad-
jutant.

manding any company of Active Militia, with the assistance of the Officers and non-commissioned officers of his Company, to make and keep at all times a correct Roll of the Company in such form as Her Majesty may direct; and it shall be the duty of the Lieutenant-Colonel or other Officer commanding any battalion of Active Militia, and under him especially of the Adjutant, to see that the Company Rolls above referred to are properly made out, and corrected from time to time by the Captains or other Officers commanding companies in such Battalion, and to report such Officers as fail to perform their duty in this respect.

Attendance at
rendez-vous.

66. Each Militiaman called out for actual service shall attend at such time and place as may be required by the Officer commanding him, with any arms, accoutrements, ammunition and equipment he has received, and with such provisions as such Officer may direct.

Absence for 7
days, deser-
tion.

67. Any Militiaman who when called out for actual service, shall without leave absent himself from his Corps, for a longer period than seven days, may be tried by Militia Court Martial as a deserter.

Provision for
family of men
killed.

68. When any Officer or man is killed in actual service, or dies from wounds or disease contracted on actual service, provision shall be made for his wife and family out of the public funds :

And for men
permanently
disabled.

2. And all cases of permanent disability arising from injuries received or illness contracted on actual service, shall be reported on by a Medical Board, and compensation awarded, under such regulations as may be made from time to time by the Governor in Council; and any medical practitioner who shall sign a false certificate in any such case, shall incur a penalty of four hundred dollars.

REGULATIONS FOR BILLETING AND CANTONING TROOPS AND MILITIA WHEN ON ACTUAL SERVICE, AND FURNISHING CARRIAGES, HORSES, &C., FOR THEIR TRANSPORT AND USE.

Governor in
Council to
make regula-
tions.

69. The Governor in Council may make regulations for the billeting and cantoning of Troops and Militia when on active service, for the furnishing of carriages, horses and other conveyance for their transport and use, and for adequate compensation therefor, and may by such regulations impose fines not exceeding twenty dollars, and imprisonment in cases of default of payment of such fines.

Penalty for
refusing con-
veyance.

70. Any person lawfully required under this Act or by any regulation made under the authority thereof, to furnish any railway car or engine, boat or other craft, for the conveyance or use of any Troops or Militia, who neglects or refuses to furnish

the same, shall thereby incur a penalty not exceeding four hundred dollars for each such offence.

71. Nothing in this Act contained or in any regulations made under the authority thereof shall be construed to authorize the quartering or billeting of any Troops or Militia, either on a march or in cantonment, in any Convent or Nunnery of any Religious Order of females, or to oblige any such Religious Order to receive such Troops or Militia, or to furnish them with lodging or house room.

Not to be
quartered on
Nuns.

COURTS OF ENQUIRY AND COURTS MARTIAL.

72. *By 36 V. c. 46, sec. 2, page 450 post, this Section was repealed and the following substituted.*

Her Majesty may convene Courts of Enquiry and appoint officers of the Militia to constitute such Courts, for the purpose of investigating and reporting on any matter connected with the government or discipline of the Militia, and with the conduct of any officer, non-commissioned officer or private of the force ; and shall have power at any time to convene Militia Courts Martial, and to delegate power to convene such Courts, and to appoint officers to constitute the same, for the purpose of trying any officer, non-commissioned officer or private of the Militia for any offence under this Act and to delegate also power to approve, confirm, mitigate or remit any sentence of any such Court ; but no officer of Her Majesty's regular army on full pay shall sit on any Militia Court martial.

Her Majesty
may convene
Courts of En-
quiry and
Courts Mar-

Proviso.

73. The regulations for the composition of Militia Courts of Enquiry and Courts Martial, and the modes of procedure and powers thereof, shall be the same as the regulations which may at the time be in force for the composition, modes of procedure and powers, of Courts of Enquiry and Courts Martial for Her Majesty's regular army, and which are not inconsistent with this Act ; and the pay and allowances of Officers and others attending such Courts may be fixed by the Governor in Council.

Regulations
respecting, and
powers, &c.,
of such Courts.

74. No Militia Officer or Militiaman shall be sentenced to death by any Court Martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or traitorous correspondence with the enemy ;—and no sentence of any General Court Martial shall be carried into effect until approved by Her Majesty.

Sentence of
death in cer-
tain cases only.

OFFENCES AND PENALTIES.

75. Any Officer commanding a Corps of Militia, who shall knowingly claim pay on account of any drills performed with his Corps, for any man belonging to any other Corps of Militia, shall be guilty of a misdemeanour, and shall likewise be liable to be tried and punished by Court Martial ; and any officer commanding a Corps of Militia, who shall include in any parade state or other Return, any man not duly enrolled and

Claiming pay
for drills not
performed.

Including men
not duly en-
rolled.

attested as a Militiaman, shall be guilty of a misdemeanour, and shall be likewise liable to be tried and punished by Court Martial; and any non-commissioned officer or private of the Militia who may claim or receive pay on account of any drill performed in the ranks of any other than his own proper Corps, shall be guilty of a misdemeanour, and shall likewise be liable to be tried and punished by Court Martial.

Claiming pay for drill performed with another Corps.

Fraudulently retaining pay of men.

Signing false parade state, roll, etc.

False swearing, etc.

76. Any officer or non-commissioned officer of the Militia who obtains, under false pretences, or who retains or keeps in his own possession, with intent to apply to his own use or benefit, any of the pay or moneys belonging to any Officer, non-commissioned officer or private of any Corps, shall be guilty of a misdemeanour, and shall be dismissed the service; and any Officer or non-commissioned officer who may sign a false parade state, roll, or pay-list, or any false return whatever, shall be guilty of a misdemeanour, and shall be likewise liable to be tried by Court Martial for the offence; and any person making an Affidavit or Declaration required in and by this Act, or by any regulation made under the authority thereof, and swearing or declaring falsely therein, shall be guilty of perjury.

Refusing to give information, or giving false.

77. Any person of whom information is required by any Officer, or non-commissioned officer, making any Militia Roll, in order to enable him to comply with the provisions of this Act, refusing to give such information or giving false information, shall forfeit and pay a penalty not exceeding twenty dollars for each item of information demanded of him and falsely stated, and the like sum for each individual name that may be refused, concealed or falsely stated, and every person refusing to give his own name and proper information, when applied to as aforesaid, or giving a false name or information, shall forfeit and pay a penalty not exceeding twenty dollars:

Refusing to make enrolment, ballot, &c.

2. And any Officer or non-commissioned officer of the Militia, refusing or neglecting to make any enrolment or ballot or to make or transmit, as herein prescribed, any roll or return, or copy thereof, required by this Act or by any regulation made under the authority thereof, shall incur a penalty, if an Officer, not exceeding fifty dollars, if a non-commissioned officer, not exceeding twenty-five dollars for each offence.

Men drafted, &c., refusing to take oath.

78. Any Militiaman, drafted or liable to be drafted for service, who shall refuse or neglect to take the oath hereinbefore prescribed, when tendered to him by a Justice of the Peace or by any Commissioned Officer in command of the Corps to which such Militiaman belongs, or in whose district he resides, shall be subject to imprisonment for a period not exceeding six months, and for every subsequent neglect or refusal to take such oath shall be subject to a further imprisonment not exceeding twelve months; and he may on due proof in either case

be summarily committed upon the warrant of any two Justices of the Peace.

79. Any Officer, non-commissioned officer or private who shall falsely personate another at any parade of the Militia, or on any other occasion, for any of the purposes required by this Act, shall be liable to a fine not exceeding one hundred dollars, and shall be guilty of a misdemeanour; and any Officer or non-commissioned officer of the Militia refusing or neglecting to assist his Commanding Officer in making any roll or return, or refusing or neglecting to obtain or to assist him in obtaining any information which he may require in order to make or correct any roll or return, shall incur a penalty, if an Officer, not exceeding fifty dollars; if a non-commissioned officer, not exceeding twenty-five dollars for each offence; and any person refusing or neglecting to give any notice or information necessary for making or correcting the Roll of any Company, which he is required by this Act to give to the Commanding Officer of such Company or to any Officer or non-commissioned officer thereof demanding the same at any seasonable hour and place, shall incur a penalty of ten dollars for each offence.

Personating others, at parade, &c.

Refusing to assist in making Rolls, &c.

Or to give information for them.

80. Any Officer, non-commissioned officer or private of the Militia who, without lawful excuse, neglects or refuses to attend any parade or drill or training at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such parade, drill or training shall incur a penalty, if an Officer, of ten dollars, if a non-commissioned officer or private, of five dollars, for each offence; and absence for each day shall be held to be a separate offence; and any person who interrupts or hinders any Militia at Drill, or trespasses on the bounds set out by the proper Officer for such Drill, shall incur a penalty of five dollars for each offence, and may be taken into custody and detained by any person by the order of the Commanding Officer, until such Drill be over for the day; and any officer, non-commissioned officer or private disobeying any lawful order of his superior Officer, or being guilty of any insolent or disorderly behaviour towards such Officer, shall incur a penalty, if an Officer of twenty dollars, if a non-commissioned officer or private of ten dollars for each offence.

Refusing to attend drill.

Hindering Militia at Drill.

Insolent or disorderly behaviour.

81. Any non-commissioned officer or private who fails to keep in proper order any arms or accoutrements delivered or intrusted to him, or who appears at drill, parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of four dollars for each such offence; and any person who unlawfully disposes of or removes any arms, accoutrements or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause (the proof of

Not keeping arms in proper order.

Disposing of them, &c.

Previso. which shall lie upon him), shall incur a penalty of twenty dollars for each offence;—but this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such, instead of being subjected to the penalty aforesaid;—and any person charged with any act subjecting him to the penalty imposed by this section may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit shewing that there is reason to believe that such person is about to leave Canada carrying with him any such arms, accoutrements or articles.

Refusing to aid the Civil power.

82. Any Officer, non-commissioned officer or private of the Militia who, when his corps is lawfully called upon to act in aid of the civil power, refuses or neglects to go out with such Corps, or to obey any lawful order of his superior Officer, shall incur a penalty, if an Officer not exceeding forty dollars, if an non-commissioned officer or private, not exceeding twenty dollars for each offence.

Resisting draft, &c.

83. Any person who resists any draft of men enrolled under this Act, or counsels or aids any person to resist any such draft, or in the performance of any service in relation thereto, or counsels any drafted man not to appear at the place of rendezvous, or wilfully dissuades him from the performance of any duty required by law of Militiamen, shall, upon conviction thereof, be subject to a fine of not exceeding one hundred dollars, or to imprisonment not exceeding six months, or to both of the said punishments.

Contravening this Act in any way.

84. Any person who wilfully contravenes any enactment of this Act, shall, when no other penalty is imposed for such contravention, incur a penalty not exceeding twenty dollars for each offence; but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such.

RECOVERY OF PENALTIES.

How recoverable.

85. All penalties incurred under this Act shall be recoverable, with costs, by summary conviction on the evidence of one credible witness, on complaint or information before one Justice of the Peace; and in case of non-payment of the penalty immediately after conviction, the convicting Justice may commit the person so convicted and making default in payment of such penalty and costs, to the common jail of the territorial division for which the said Justice is then acting, or to some house of correction or lock-up house situate therein, for a period of not more than forty days when the penalty does not exceed twenty dollars, and for a period of not more than sixty days when it exceeds the last mentioned sum.

Imprisonment if not paid.

PROSECUTIONS.

On whose complaint only prosecutions

86. No prosecution against an Officer of the Militia for any penalty under this Act or under any regulation made

under the authority thereof, shall be brought except on the complaint of the *Adjutant-General*; and no such prosecution against any non-commissioned officer or private of the Militia, shall be brought except on the complaint of the Commanding Officer or Adjutant of the Battalion or Corps, or Captain of the Company or Corps to which such non-commissioned officer or private belongs;—but the *Adjutant-General* may authorize any Officer of Militia to make such complaint in his name, and the authority of any such Officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the *Adjutant-General*; and no such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling or having in possession arms, accoutrements or other articles delivered to the Militia, or for desertion.

should be brought.

Within what time.

By 38 V. c. 8, sec. 3, page 452 post, the words "Officer for the time being commanding the Militia" are substituted for the words "Adjutant General" in the fourth, ninth, and thirteenth lines of this section.

87. Every bond to the Crown entered into before any Judge or Justice of the Peace, or officer authorized to take the same, by any person under the authority of this Act, or according to any General Order or Regulations made under it, for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized, shall be valid and may be enforced accordingly.

Bonds under this Act to be valid.

88. Every sum of money which any person or corporation is under this Act liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the Crown used for Militia purposes, shall be a debt due to the Crown, and may be recovered as such.

Recovery of sums payable to the Crown.

89. Every action and prosecution against any Officer or person, for anything done in contravention to this Act, or to any regulation made under the authority thereof, shall be laid and tried in Quebec in the district, and in Ontario, New Brunswick and Nova Scotia, in the county, where the act complained of was done, and shall not be commenced after the end of six months from the date of such contravention, except as hereinbefore provided;—and in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at the trial;—and no plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into Court by the defendant after the action was brought:

In what local jurisdiction actions, &c., shall be brought.

General issue.

Tender of amends.

2. But no action or prosecution shall be brought against any Officer or person, for anything purporting to be done under the

Actions for things done in

pursuance of
this Act.

authority of this Act, until at least one month after notice in writing of such action or prosecution has been served upon him, or left at his usual place of abode; in which notice the cause of action, and the Court in which it is to be brought, shall be stated, and the name and place of abode of the Attorney endorsed thereon.

H. M. may re-
mit penalties.

90. Every penalty when recovered shall be paid over to the Receiver-General: but Her Majesty may remit any penalty incurred under the provisions of this Act.

NOTICES, ORDERS, &C.

Orders, &c.,
need not be in
writing, unless
herein required
so to be.

91. It shall not be necessary that any order or notice under this Act be in writing, unless herein required to be so, provided it be communicated to the person who is to obey or be bound by it, either directly by the Officer or person making or giving it, or by some other person by his order.

General Orders
in *Canada*
Gazette.

92. All General Orders of Militia, or other Militia Orders issued through or by the *Adjutant-General*, shall be held to be sufficiently notified to all persons whom they may concern, by their insertion in the *Canada Gazette*;—and a copy of the said *Gazette* purporting to contain them shall be evidence of such orders.

By 38 V. c. 8, sec. 3, page 452 post, the words "Officer for the time being commanding the Militia" are substituted for the words "Adjutant-General," in the second line of this section.

Notifying or-
ders.

93. Every Order made by the Commanding Officer of any Corps of Militia shall be held to be sufficiently notified to all persons whom it may concern by insertion in some newspaper published in the Regimental Division, in which such Corps is situated, or, if there be no such newspaper, then by posting a copy thereof on the door of every place of public worship or of some other public place, in each Company Division affected by such orders.

Proof of com-
missions, &c.

94. The production of a Commission or appointment, warrant or order in writing, purporting to be granted or made according to the provisions of this Act, shall be *prima facie* evidence of such Commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such Commission, appointment, warrant or order.

EXPENDITURE.

Payments to
be made by
warrant.

95. All sums of money required to defray any expense authorized by this Act may be paid out of the Consolidated Revenue Fund, upon warrant directed by the Governor to the

Receiver-General; but no sum of money shall be so paid unless Proviso. it be included in some appropriation made by Parliament; and a detailed account of moneys so expended shall be laid before Parliament during the then next session thereof.

GENERAL POWER TO MAKE REGULATIONS.

96. The Governor in Council may make regulations relating to anything necessary to be done for the carrying into effect of this Act, and may by such regulations impose fines not exceeding twenty dollars each, and imprisonment in case of default of payment of any such fine. Power to enforce fines.

REGULATIONS.

97. All regulations made under the authority of this Act shall be published in the *Canada Gazette*, and when so published they shall have the force of law as fully as if they were contained in this Act, of which they shall be deemed to form a part: Regulations to be published.

2. All copies of such Regulations printed by the Queen's Printer shall be evidence of such Regulations and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary be shown, and shall be judicially noticed by all Judges, Justices of the Peace and others without being specially pleaded; Certain copies to be evidence.

3. All Regulations made under this Act, and an annual report of the state of the Militia, shall be laid before Parliament by the Minister of Militia and Defence, within the first thirty days of the then next session thereof. To be laid before Parliament.

INTERPRETATION.

98. The Interpretation Act shall apply to all regulations, orders and articles of engagement lawfully made or entered into under this Act. Interpretation Act.

2. The word "Corps" shall, for the purposes of this Act, include any Field Battery, Brigade or Battery of Artillery, Troop of Cavalry, or any Company, Battalion, or Regiment. Word "Corps explained.

REPEAL OF ACTS.

99. All Acts or parts of Acts relating to the Militia, in force in either of the Provinces which constitute the Dominion of Canada, repugnant to or inconsistent with the provisions of this Act, are hereby repealed. Inconsistent enactments repealed.

WHEN THIS ACT SHALL COME INTO FORCE.

100. This Act shall come into force on the First day of Commencement of Act.

October next, or on such earlier day as may be appointed for that purpose in a Proclamation to be issued by the Governor-General.

34 VICT. CAP. 17.

An Act to extend the Act respecting the Militia and Defence of the Dominion of Canada.

[Assented to 14th April, 1871.]

Preamble.
31 V. c. 40.

WHEREAS, it is expedient to extend the Act passed in the thirty-first year of Her Majesty's reign, intituled "An Act respecting the Militia and Defence of the Dominion of Canada," as hereinafter mentioned; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

31 Vict. cap.
40, extended
to Manitoba
and British
Columbia.

1. The Act mentioned in the Preamble to this Act shall be and is hereby extended, and shall apply to the Province of Manitoba, and shall also extend and apply to British Columbia, whenever that Colony shall become part of the Dominion of Canada.

Manitoba and
British Colum-
bia to form
each a Mili-
tary District.

2. The Province of Manitoba, and British Columbia whenever it forms part of the Dominion of Canada, shall each respectively form a Military District for the purposes of the said Act, as if they had been mentioned as such in section twelve of the said Act, and as if the word "eleven" had been used in the said section and elsewhere in the said Act, instead of the word "nine," as the number of Military Districts.

Her Majesty
may appoint
Colonels, &c.
in the Militia.

3. Sub-sections two and three of section thirty-three of the said Act are hereby so amended as to allow Her Majesty, whenever in her opinion the efficiency of the service requires it, to appoint Colonels and other officers of superior rank in the Militia, but in no case to exceed that of Major-General.

Number of
active Mili-
tiamen in-
creased.

Proviso.

4. The forty-fourth section of the said Act is hereby amended, by substituting "Forty-five Thousand" for "Forty Thousand." as the number of Active Militiamen who may in time of peace be trained and drilled as in the said section mentioned; but any increase above the number of Forty thousand, shall be authorized and regulated from time to time, by order of the Governor in Council.

5. This Act and the Act hereby amended may be cited together as “The Militia and Defence Acts, 1868 and 1871,” which shall be a sufficient citation of both Acts. Short title.

36 VICT. CAP. 46.

An Act to amend “An Act respecting the Militia and Defence of the Dominion of Canada.”

[Assented to 3rd May, 1873.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows:— Preamble.

1. The Twenty-seventh section of the Act passed in the thirty-third year of Her Majesty's reign, intituled “*An Act respecting the Militia and Defence of the Dominion of Canada*,” is hereby amended by substituting the following to the first portion of the said section down to and including the words military commanding officer only, viz: New provision substituted for part of s. 27, of 31 V. c. 40.

“27. The Active Militia, or any corps thereof, shall be liable to be called out for active service with their arms and ammunition, in aid of the civil power in any case in which a riot, disturbance of the peace or other emergency requiring such service occurs, or is, in the opinion of the civil authorities hereinafter mentioned, anticipated as likely to occur, and, (in either case) to be beyond the powers of the civil authorities to suppress, or to prevent or deal with, whether such riot, disturbance or other emergency occurs, or is so anticipated within or without the municipality in which such corps is raised or organized: and it shall be the duty of the senior officer of the Active Militia present at any locality to call out the same or any portion thereof as he considers necessary for the purpose of preventing or suppressing any such actual or anticipated riot or disturbance, or for the purpose of meeting and dealing with any such emergency as aforesaid, when thereunto required in writing by the Chairman or Custos of the Quarter Sessions of the Peace, or by any three magistrates, of whom the Warden, Mayor or other head of the municipality or county in which such riot, disturbance or other emergency occurs, or is anticipated as aforesaid, may be one; and to obey such instructions as may be lawfully given him by any magistrate in regard to the suppression of any such actual riot or disturbance, or in regard to the anticipation of such riot, disturbance or other emergency, or to the By whom and on what occasions the Active Militia may be called out.

Requisition must be in writing.

They must obey their Commanding Officer.

Officers and men to be special constables; but to obey their Military Commanding Officer only.

New section in lieu of s. 72 of 31 Vict., c. 40.

Her Majesty may convene Courts of Enquiry and Courts Martial.

Proviso.

suppression of the same, or to the aid to be given to the civil power in case of any such riot, disturbance or other emergency: and every such requisition in writing as aforesaid shall express on the face thereof, the actual occurrence of a riot, disturbance, or emergency, or the anticipation thereof, requiring such service of the Active Militia in aid of the civil power for the suppression thereof: and every Officer, non-commissioned Officer and man of such Active Militia or any portion thereof, shall on every such occasion, obey the orders of his Commanding Officer; and the officers and men, when so called out, shall, without any further or other appointment, and without taking any oath of office, be special constables, and shall be considered to act as such so long as they remain so called out; but they shall act only as a military body, and shall be individually liable to obey the orders of their Military Commanding Officer only."

2. The seventy-second section of the Act hereinbefore mentioned, made and passed in the thirty-first year of Her Majesty's reign, is hereby repealed, and the following section is substituted therefor as the seventy-second section of the said Act:—

"72. Her Majesty may convene Courts of Enquiry and appoint Officers of the Militia to constitute such Courts, for the purpose of investigating and reporting on any matter connected with the government or discipline of the Militia, and with the conduct of any Officer, non-commissioned Officer or private of the force; and shall have power at any time to convene Militia Courts Martial, and to delegate power to convene such Courts, and to appoint Officers to constitute the same, for the purpose of trying any Officer, non-commissioned Officer or private of the Militia for any offence under this Act, and to delegate also power to approve, confirm, mitigate or remit any sentence of any such Court; but no Officer of Her Majesty's regular army on full pay shall sit on any Militia Court Martial.

37 VICT. CAP. 35.

An Act to amend the Acts respecting the Militia and defence of the Dominion of Canada, and to extend the same to the Province of Prince Edward Island.

[Assented to 26th May, 1874.]

Preamble.

31 V., c. 40.

WHEREAS it is expedient to amend and extend the Act passed in the thirty-first year of Her Majesty's reign, intituled "*An Act respecting the Militia and Defence of the Dominion of Canada*," and the Acts amending it, as hereinafter

mentioned: therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The sixteenth section of the said Act is hereby amended by substituting the words “in every fourth year after the twenty-eighth day of February, in the year one thousand eight hundred and seventy-three,” for the words “in each alternate year thereafter;” provided that in case of war or other emergency, the enrolment mentioned in the said section may be made at any time by order of the Governor in Council.

Section 16
amended as to
enrolment.

2. The Act mentioned in the preamble, as amended by the Act passed in the thirty-fourth year of Her Majesty's reign, intituled “*An Act to extend the Act respecting the Militia and Defence of the Dominion of Canada*,” and by the Act passed in the thirty-sixth year of Her Majesty's reign, intituled “*An Act to amend an Act respecting the Militia and Defence of the Dominion of Canada*,” and by this Act shall be, and is hereby extended, and shall apply to the Province of Prince Edward Island.

The said Act
and 34 V. c. 17
and 36 V. c. 46
extended to
P. E. Island.

3. The Province of Prince Edward Island shall form a military district for the purposes of the Act first herein cited, as if it had been mentioned as such in section twelve of the said Act, and as if the word “twelve” had been used in the said section and elsewhere in the said Act, instead of the word “nine,” as the number of military districts, which have since been increased to eleven by the addition of the Provinces of Manitoba and British Columbia.

The said Province to be a
military district.

4. This Act and the Acts hereinbefore cited may be cited together as “The Dominion Militia and Defence Acts,” which shall be a sufficient citation of all the said Acts, including also the Act passed in the thirty-third year of Her Majesty's reign, intituled “*An Act to facilitate the signing of Militia Commissions*.”

Short title.
33 V., c. 22.

5. Sub-section two of section fifteen of the Act cited in the preamble of this Act, is hereby so amended as to allow appointments for Company Divisions in any city or town to be made from the residents of the Regimental Division within such city or town.

Appointments
for Company
Divisions.
31 V., c. 40, s.
15, amended.

38 VICT. CAP. 8.

An Act to amend the Dominion Militia and Defence Acts.

[Assented to 8th April, 1875.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

New provision, substituted for ss. 28, 29, of 31 V. c. 40.

1. The twenty-eighth and twenty-ninth sections of the Act thirty-first Victoria, chapter forty, intituled "*An Act respecting the Militia and Defence of the Dominion of Canada*," are hereby repealed, and the following substituted therefor:—

Qualification and appointment of officer commanding the militia: rank and pay.

"28. There shall be appointed to command the Militia of the Dominion of Canada, an Officer holding the rank of Colonel, or superior rank thereto, in Her Majesty's regular army, who shall be charged, under the orders of Her Majesty, with the military command and discipline of the Militia, and who while holding such appointment, shall have the rank of Major-General in the Militia of Canada, and shall be paid at the rate of four thousand dollars per annum in full of all pay and allowances."

Adjutant-General at head-quarters, rank and pay.

"29. There shall be an Adjutant-General of Militia at Head Quarters, who shall have the rank of Colonel in the Militia, and shall be paid at the rate of twenty-six hundred dollars per annum."

Duties of militia officers.

"2. The Governor in Council shall from time to time, make such orders as may be necessary respecting the duties to be performed by the Officer commanding the Militia, by the Adjutant-General, and by the officers of the militia generally."

Commissions need not be enregistered in full; exception.

2. Sub-section two of section thirty-one of the above mentioned Act is hereby repealed, and the following substituted therefor:—"Commissions of officers in the Militia, except the officer commanding the Militia, the Adjutant-General and Deputy Adjutants-General, need not be enregistered at full length, but a record of them shall be kept in the office of the Adjutant-General."

Sub-section 2 of s. 16, s. 86, and s. 92 amended, substituting "officer commanding militia" for "Adjutant-General."

3. The words "Officer for the time being commanding the Militia" shall be substituted for "Adjutant-General of Militia" in the seventh line of sub-section two of the sixteenth section, and for "Adjutant-General" in the eleventh line of the said sub-section, and in the fourth, ninth and thirteenth lines of the eighty-sixth Section, and the second line of the ninety-second section, of the above mentioned Act.

33 VICT. CAP. 22.

An Act to facilitate the signing of Militia Commissions.

[Assented to 12th May, 1870.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The Governor may cause his signature to be affixed to any Commission in the Militia, to be granted or issued under the *Act respecting the Militia and the Defence of the Dominion of Canada*, by stamping the same on such Commission with a stamp approved by him, and used for the purpose by his authority, and the signature so affixed, shall be, to all intents and purposes, as valid and effectual, as if in the handwriting of the Governor; and neither the authenticity of any such stamped signature, nor the authority of the person by whom it has been affixed to any Commission, shall be called in question, except on behalf of the Crown; and the forging or counterfeiting of any such stamped signature, or the uttering thereof, knowing it to be forged or counterfeited, shall be felony, punishable in like manner as the forgery of the Governor's Privy Seal or Seal-at-Arms.

The Governor's signature to such Commissions may be affixed by stamping.

By 36 V. c. 46, s. 4, page 451, ante, this Act, with the other Acts referred to in 36 V. c. 46, may all be cited as "The Dominion Militia and Defence Acts."

The following sections of C. S. C. c. 87, relate to the exemption of Firemen from Militia duties in time of peace, and are therefore here printed.

C. S. CAN. CAP. 87.

An Act to exempt Firemen from certain local duties and services.

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. Whenever any Company or Companies have been regularly enrolled in any city, town, or place in which the formation of Companies of Firemen is by law authorized and regulated, the Corporate Authorities, or Board of Police, in such

The Corporate Authorities, &c., in any city or town in which a Fire

Company is established, may cause the members of such Company to be exempted from serving as Jurors, and from certain other offices.

city or town, or if there be no such Authorities or Board, the Justices of the Peace of the district or county in which such town may be situate, in General Quarter Sessions assembled or the majority of them, being satisfied of the efficiency of such persons and accepting their enrolment, shall direct the Clerk of the Peace for the district or county, to grant to each member of such Company a certificate that he is enrolled on the same, which certificate shall exempt the individual named therein, during the period of his enrolment, and his continuance in actual duty as such Fireman, *from Militia duty in time of peace*, from serving as a Jurymen, or a Constable, and from all Parish and Town offices.

2. This section states that such exemption may be taken away in case of misconduct on the part of any member of any such Company.

3. This section states that the Corporate Authorities above mentioned may cause such Companies to be formed, or defer such formation, as they deem most expedient.

Firemen having served seven years exempted from serving in certain offices.

4. When any member of any Company of Firemen, regularly enrolled in any city, town or place in which the formation of Companies of Firemen is by law authorized and regulated, has regularly and faithfully served for the space and term of seven consecutive years in the same, the said member shall be entitled to receive, upon producing due proof of his having served seven consecutive years as aforesaid, a certificate from the Clerk of the Peace of the district or county in which he resides, or from the Clerk of the Corporate Body or Board of Police under whose authority the said Company has been established, that he has been regularly enrolled and served as a member of the said Fire Company for the space of seven years; and such certificate shall exempt the individual named therein from Militia duty in time of peace, from serving as a Constable, and from all parish and town offices, but this shall not exempt any such Fireman from serving as a jurymen.

5. This section states that Firemen having served seven years are entitled to a certificate to that effect.

6. This section relates to certain other exemptions.

37 VICT. CAP. 36.

An Act to establish a Military College in one of the Garrison Towns of Canada.

[Assented to 26th May, 1874.]

WHEREAS it is expedient to make further provision for the education of Cadets and Officers of Militia in military knowledge and scientific pursuits connected with the military profession : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. An institution shall be established for the purpose of imparting a complete education in all branches of military tactics, fortification, engineering and general scientific knowledge in subjects connected with and necessary to a thorough knowledge of the military profession, and for qualifying officers for command and for staff appointments. Such institution to be known as the Military College, and to be located in some one of the garrison towns of Canada.

Preamble.
A military college to be established.

Location.

2. The College shall be conducted under the superintendence of a military officer having special qualifications with regard to the instruction to be given and discipline, whose title or designation shall be that of Commandant. There shall also be two other professors or instructors, and such other assistants as may be found necessary and as may be authorized by Parliament. The salary of the Commandant to be not more than three thousand dollars, and the salaries of the other professors to be not more than two thousand dollars each. All the staff of the College to be appointed by the Governor in Council, and to hold office during pleasure.

College staff, number, salaries, and how appointed.

3. The College shall be governed and its affairs administered under and according to regulations to be made from time to time, and approved by the Governor in Council, such regulations to be published in the *Canada Gazette*, and after such publication to have the force of law as fully as if they were contained in this Act, of which they shall be deemed to form a part.

Government of College.

Governor in Council to adopt regulations.

4. A Board of Examiners shall be appointed by the Governor in Council, in each military district, consisting of three or more members, one of whom shall, when practicable, be an officer of the militia staff, who shall be authorized to examine candidates for admission to the College as cadets, and give certificates (in form to be provided), to such as are able to qualify according to the regulations which may be adopted. Meetings of such Boards shall be held when directed by the Department of Militia and Defence.

Boards to examine candidates as cadets.

Examination of candidates necessary to admission.

5. All candidates for admission to the College as students shall be required to pass an examination before the Examiners as provided in the next preceding section, from whom a certificate must be obtained, that they are proficient in the subjects to be prescribed. They will also be required to pass a medical examination, and produce evidence of good moral character. No candidate will be accepted who is under fifteen or over twenty years of age.

Age of candidates.

Examiners to transmit lists of candidates' names obtaining certificates and report.

6. The Examiners shall transmit to the Department of Militia and Defence a report of the names of all candidates who succeed in obtaining certificates, for the information of the Governor in Council, with a report of each meeting, which report may embody any particular circumstances connected with the examination or any special recommendation.

Number of cadets to be admitted from each district.

7. The number of cadets with which the College may be opened shall not exceed twenty-two. And thereafter, for the first two years, the annual admission shall not exceed three from each military district, and after the third year shall not be more than two in each year from each military district. The selection shall be made by the Governor in Council from the list of names forwarded by the Boards of Examiners, having reference to the order of merit in which the applicants pass their preliminary examinations. The collegiate term shall be four years.

How selected.

Governor in Council may select on from other districts in certain cases.

8. In the event of there being no names forwarded as provided from one or more of the military districts, either on account of there being no applicants for examination or a failure in obtaining a certificate, then the Governor in Council may select the required number from candidates who have passed an examination in any of the other districts.

Temporary admission of Officers of Active Militia.

9. The Governor in Council may, for special reasons in the interests of the service, admit for a limited time, officers of the Active Militia, although over the age of twenty years, who shall have obtained a first-class certificate under the provisions of the thirty-third section of "*An Act respecting the Militia and Defence of the Dominion of Canada*," (thirty-first Victoria, chapter forty,) such admissions to be under such regulations as the Governor in Council may approve, and in addition to the number provided for in section seven of this Act, but at no time to exceed ten in number.

Requirement from cadets.

10. Each cadet will be required to furnish himself with a mattress and bedding, books and such apparatus as may not be supplied by the Government, and to pay a contribution in aid of the expense of procuring mess room table furniture.

Payment for cadets.

To meet the ordinary expenses of living, and procuring uniform, a sum not exceeding the rate of three hundred dollars per annum, and such allowances as may, from time to time, be

authorized by the Governor in Council, may be paid for each cadet during such period as he may remain at the college.

11. Every person entering upon a course of instruction in the College shall sign a roll of entry, and be thenceforward, for the period of his pupilage, subject to the Queen's rules and regulations, the Mutiny Act, the Rules and Articles of War, and to such other rules and regulations as Her Majesty's troops are subjected to.

Cadets and students subject to Articles of War and H.M. Regulations.

C. S. U. C. CAP. 6.

An Act respecting the maintenance of persons disabled, and the widows and children of persons killed in the Military Service of the Crown.

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

EXISTING PENSIONS CONTINUED.

1. Every person at present allowed a pension shall, subject to the provisions of this Act, continue to receive the same ; and every Officer, Non-commissioned Officer, and Private Militiaman, or Teamster of any Militia Corps or Detachment raised in Upper Canada, or Militiaman who acted as Provincial Artillery Driver, or in the Coloured Corps, or was employed with the Indians, or served in the Provincial Marine Establishment, and whose name now stands on the Pension List of Upper Canada, or whose Widow or Children is or are now receiving a pension on his account, shall be deemed to have been a Militiaman.

Present pensions continued.

WHO TO BE PENSIONED AND THE AMOUNT.

2. In case any Officer, Non-commissioned Officer, Private Militiaman, or Teamster of the Militia, or of any such Corps or Detachment, has been or should, after this Act takes effect, be killed in any engagement with the Enemy, or by accident or casualty, while performing any duty on actual Service in the Militia, or has died or should thereafter die while in captivity as a Prisoner of War, or of wounds received in action with the Enemy, or of any disease contracted while on such Service, or within twelve months after such disease was contracted, and left or leave a Widow, or a Child or Children ; then his Widow, during her Widowhood, and in case of her death or marriage,

Description of persons entitled to pensions.

his Child or Children, being under the age of sixteen years, and until they respectively attain that age, shall be allowed a pension of Eighty Dollars per annum, to be paid to such Widow, or, in case of her death or marriage, to be paid for the use of such Child or Children, to his or their Guardian, or to the Executor or Administrator of his or their Father, by the Receiver-General, out of any moneys in his hands subject to the disposition of the Legislature, and in discharge of the Warrants of the Governor, who may order such pension to be paid in advance quarterly or half yearly.

Persons wounded or disabled.

3. In case any person has been wounded or should hereafter be wounded, or in any way disabled while in the Public Service as a Militiaman, and be unable to maintain himself, he may claim and be allowed a pension of Eighty Dollars per annum.

WHO NOT TO BE PENSIONED.

Persons specially provided for not within this Act.

4. No person provided for by any special Act shall be allowed a pension under this Act.

Persons otherwise provided for excluded.

5. No person receiving a Pension in any other of Her Majesty's dominions, by reason of wounds or injuries received on Militia Service in Upper Canada, shall receive any additional Pension.

LOCAL MEDICAL BOARDS.

The Governor may appoint Local Medical Boards to examine applicants for pensions.

6. In the case of any person claiming such pension, as having been so wounded or disabled during or since the War with the United States of America, the Governor may appoint three Surgeons (legally authorized to practise Physic and Surgery, and resident in the County in which the person resides,) to examine him, and the decision of such Surgeons, or of any two of them, shall be final; and if they, or any two of them are satisfied, upon examination, that such person is actually disabled from wounds or accident received in such Service, and certify the same, then, upon such certificate being submitted to the Governor, he may cause the name of such person to be placed on the Militia Pension List of Upper Canada, and such person shall from thenceforth receive a Pension of Eighty Dollars per annum, in the same manner as other Militia Pensioners.

GENERAL MEDICAL BOARD.

May appoint a General Board.

7. The Governor may from time to time appoint a Board, consisting of three or more persons, who shall sit in the City of Toronto, and examine any person claiming a Pension for wounds received while on actual Service as a Militiaman during the War with the United States, whom the Governor may require to appear before them, and the Board shall enquire into the nature of such wounds, and the circumstances under which they

were received, and if such wounds be found and declared by the Board to have disabled the person inspected from maintaining himself by labour, the Governor may direct the name of such person to be placed on the Pension List, and such person shall from thenceforth, receive a Pension of Eighty Dollars per annum in the same manner as other Militia Pensioners.

POWERS AND DUTIES OF THE GENERAL BOARD.

8. The Governor may require any person who now is, or hereafter may be, placed on the Pension List of Upper Canada as a disabled Militiaman, to present himself once in each year before the said Board, for examination; and if the Board report that such person is then able to maintain himself by labour, the Governor may direct the name of such person to be erased from the Pension List, and his pension shall cease.

The Governor may require pensioner to appear before such Board.

9. The Governor may require any person receiving a pension as the Widow of a deceased Militiaman, to adduce proof to the satisfaction of the Board hereinbefore last mentioned, that she is the Widow of such deceased Militiaman, which proof shall not be limited to the oath of the Pensioner; and if the said Board be of opinion that she is not the Widow of such deceased Militiaman, then her name shall be erased from the Pension List, and her pension shall cease.

What proof the Governor may require.

10. The Governor may require any person hereafter claiming a pension as the Widow of a deceased Militiaman, to give, besides her own oath, such evidence of her being such Widow, as he may deem expedient.

More than the oath of a widow may be required.

11. In every case where a pension is applied for by or has been granted to any Widow or Child of a deceased Militiaman who died after his discharge from actual service, the said last mentioned Board may inquire into the circumstances under which such Militiaman died, and whether his death was caused by disease contracted or wounds received while in actual service; and if the Board report to the Governor that such Militiaman did not die from disease so contracted or wound so received, the application shall be rejected, or the name of the Widow or Child shall be erased from the Pension List, and the pension shall cease.

The General Board may inquire into all cases.

PENSIONERS' OATHS, ETC.

12. Every Pensioner on the Militia Pension List shall, as soon as convenient after the first day of January, and the first day of July in each year transmit to the Receiver-General an affidavit (or affirmation) made before a Justice of the Peace having jurisdiction in the County or place in which the same is administered, in one of the following forms:

Affidavits to be made by pensioners half-yearly.

1.—I, A. B., of _____, in the County of _____
late a _____, in the _____ Regiment of _____

Forms of.

Militia, do solemnly swear (*or affirm*) that I am the person whose name has been heretofore inserted in the Pension List of Upper Canada.

Or,

2.—I, G. H., of _____, in the County of _____, do solemnly swear (*or affirm*) that I am the widow of A. B., who was killed (*or died of wounds received*) in action with the enemy (*or was killed or died in any other manner hereinbefore mentioned, as the case may be*).

Or,

3.—I, G. H., of _____, in the County of _____, do solemnly swear (*or affirm*) that I am the Widow of A.B., who died from disease contracted whilst on Service.

Or in the case of a Child or of Children.

4.—I, A. B., of _____, in the County of _____, Guardian of the Child (*or Children*) of _____, or Executor (*or Administrator*) of _____ (*as the case may be*), do solemnly swear (*or affirm*) that I verily believe that G. H., K. L. and M. N. (*naming all the Children under sixteen years of age*), are Children of the said _____, who was killed in action with the enemy—*or*, who died from wounds received in action—*or*, who died from disease contracted whilst on Service (*or, as the case may be as aforesaid*); and that each of them the said G. H., K. L. and M. N. is under the age of sixteen years.

WHO TO CERTIFY THE OATHS.

13. Any one of Her Majesty's Justices of the Peace, or the Senior Officer of the Regiment of Militia within whose jurisdiction or limits the person making such affidavit (*or affirmation*) resides, is to certify, in confirmation of the same, in the form following:

To be approved of by a Justice of the Peace or the Senior Officer of Militia.

I, C. D., one of Her Majesty's Justices of the Peace (*or the Senior Officer of the _____ Regiment of _____ Militia, as the case may be*), do hereby certify that the above named deponent (*or affirmant*) A. B. (*or G. H.*) is the person he (*or she*) alleges himself (*or herself*) to be; and that I verily believe the facts alleged in his (*or her*) affidavit (*or affirmation*) to be just and true.

Dated _____ day of _____, 18 ____.

WHAT VOUCHERS AUTHORIZE PAYMENT.

Such affidavit and certificate sufficient to authorize payment.

And such affidavit (*or affirmation*) and certificate, with the receipt of the pensioner, Widow, Guardian, Executor or Administrator, or his or her Agent (*as the case may be*), shall be a sufficient Voucher for the payment of the Pension.

WARRANTS FOR PAYMENT.

14. To avoid the unnecessary multiplication of Warrants, the Governor may, by one or more Warrant or Warrants, order the

Warrants for payment may

appropriation and payment of the several sums therein named by the Receiver-General to the purposes of this Act. includes several sums.

PUBLICATION OF ORDERS TO PAY.

15. When the Governor, from time to time, orders the payment of the pensions aforesaid, or any of them, the Receiver-General shall insert a notice thereof in the *Canada Gazette* for three months immediately after such order. Notice of payment ordered, to be given by Receiver-General.

C. S. CAN. CAP. 36.

An Act respecting Lands and Real Property, held or required by the Imperial Government for the Military defence of this Province.

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

TRANSFER OF LANDS, AND POWERS TO THE WAR DEPARTMENT.

1. All lands and other real property comprised in the Schedule to this Act annexed, and all other lands and other real property, except the lands and property in the second Schedule to the *Act respecting the Ordnance and Admiralty Lands transferred to the Province*, which by virtue of the Act 7 V. c. 11, or of any other Act or Acts, or of any conveyance, surrender, lease, or other assurance, or of any law, custom or usage whatsoever, were at any time before the nineteenth day of June, 1856, vested in the Principal Officers of the Ordnance on behalf of Her Majesty, or purchased, vested or taken by or in the name of or by any person or persons in trust for Her Majesty, for the use of the said Department, or for the defence and security of this Province, that is to say :

Lands and property transferred to the Secretary of State for War.

2. All castles, forts, lines or other fortifications, messuages, lands, lands covered with water, beaches, beds of rivers, canals and works connected therewith, tenements, estates, and other hereditaments, real property, rights, easements and servitudes whatsoever, (all which things shall be intended by the words "Lands and other real property" wheresoever they occur in this Act) within this Province, and immediately before the passing of the Act passed in the seventh year of Her Majesty's Reign, chaptered eleven, (hereinafter referred to as the *Ordnance Vesting Act*), vested in Her Majesty, or in any person or persons, officer or officers, in trust for Her Majesty, and set apart, used or occupied for purposes connected with the military defence of the Province, or placed under the charge and control

What property shall be vested. Lands used for military defence or under control of the Ordnance Department.

of the Officers of the said Ordnance Department, or of the Commander of Her Majesty's Forces, or other Military Officer or Officers, whether the same became so vested in Her Majesty, or Her Royal Predecessors for such purposes by the cession of this Province, or have been by Her or them set apart or transferred from the lands, demesnes, or other real property of the Crown, or from the Clergy Reserves, or have been intended to be so set apart or transferred, for any of the purposes aforesaid, or have been purchased for such purposes by any person, or officer, and paid for out of funds provided for that purpose by the Parliament of the United Kingdom, and surrendered or conveyed to Her Majesty, or Her Royal Predecessors, or to some person in trust for Her or them, or have been set apart or transferred or have been taken for any such purposes, under the authority of any Act or Law, in force in this Province, or in any part thereof, (by whatsoever mode of conveyance the same have been purchased and taken, and whether in fee or absolute property, or for any life or lives, or term or terms of years, or for any lesser interest, or *à titre de cens*,)—And all such Lands, and other real property, and all others which have since the passing of the said Act been purchased by the said Principal Officers, or which having been acquired and purchased, or taken for the Crown, and the price or compensation thereof paid out of funds provided by the Imperial Parliament, Her Majesty has been pleased to direct to be vested in the said Principal Officers, and all erections and buildings erected, or built thereon, together with the rights, members, and appurtenances to the same respectively belonging, and which have not been sold or otherwise disposed of by the said Principal Officers, and are not comprised in the said Schedule to the *Act respecting the Ordnance and Admiralty Lands transferred to the Province*, and also all the moveable and personal property of Her Majesty held or used for the services and purposes aforesaid, or any of them,—are and shall remain vested in Her Majesty's Principal Secretary of State for the time being to whom Her Majesty thinks fit to intrust the Seals of the War Department, according to their respective nature and quality, and the several estates and interests therein, subject to the provisions of this Act, on behalf of and in trust for Her Majesty, for the service of the War Department, or for such other services as Her Majesty, or the said Principal Secretary of State, from time to time, direct;

Proviso—
Lands or
buildings pur-
chased with
Provincial
funds not to be
so transferred.

3. Provided always, that nothing in this Act, or in the said Act 7 V. c. 11, shall extend to vest in the said Principal Officers or the said Principal Secretary of State, any Lands or Buildings, which have been purchased or erected for Provincial purposes, with funds provided by the Legislature of this Province, or of either of the late Provinces of Upper or Lower Canada, unless the same have been or are lawfully purchased by, and conveyed to the said Principal Officers or Secretary of State, under the provisions of some Act or Law in force in this Province; or any Lands or Buildings belonging to the Civil Government of the Province, notwithstanding that the same

may have been under the charge and control, or in the use or occupation of the Ordnance, or any other Military Department ;

4. And provided also, that nothing in this Act or in the said Proviso Act shall extend to vest in the said Principal Officers or in the said Secretary of State, any Lands which, before the passing of the said Act, had been granted by Her Majesty, or Her Royal Predecessors, to any other person or party, unless the same were, subsequently to such grant, lawfully purchased, acquired or taken for the purposes of the said Ordnance Department, nor to impair, diminish or affect any right, title or claim, vested in or possessed by any person or party at the time of the passing of the said Act, to, in or upon any Lands or real property whatsoever, nor to give the said Principal Secretary of State any greater or better title to any Lands or real property than was then vested in the Crown, or in some person or party in trust for the Crown.

2. The lands and other real property so as aforesaid transferred to and vested in the said Principal Secretary of State for the time being intrusted with the Seals of the War Department, shall be subject nevertheless to every lease or agreement for lease entered into with or by the Principal Officers of Ordnance, or any person or persons authorized and empowered by the said Principal Officers to exercise the powers and authorities of the said Ordnance Vesting Act, of or in respect of any such lands or other real property : Lands transferred to be subject to leases, &c.

2. And when and so often as any person having been such Principal Secretary of State, ceases to hold such Office, the said several lands and other real property, and all lands and other real property purchased or otherwise acquired or held by him as such Principal Secretary of State, on behalf of Her said Majesty, shall, by virtue of this Act, be absolutely divested out of such Secretary of State and shall be transferred to and vested in his Successor in the said Office, immediately upon his receiving the Seals of the said Department, absolutely ; To vest in the successors in office of such Secretary.

3. And the said lands and other real property vested and to be vested in any such Principal Secretary of State and his Successors, shall, as to such of them as were purchased or are held for an estate of inheritance in fee simple, be so vested in such Principal Secretary of State and his Successors, in the same manner as if the fee simple thereof had been originally conveyed to such Principal Secretary of State, as a Corporation sole, and his Successors, and as to all lands and other real property purchased or held for any less estate than an estate of inheritance in fee simple, as if the same lands, hereditaments and property had been originally conveyed, surrendered, demised or otherwise assured to such Principal Secretary of State, as a Corporation sole, and his Successors, for all the existing estates, or interests therein respectively, and so from time to To be held by him or any successor in office as a corporation sole, and for the same estate as the Principal Secretary had in them.

time:—And wherever such Principal Secretary of State as aforesaid, is mentioned or referred to in this Act, his Successors in Office are also intended and included, unless it is otherwise expressed.

Contracts, &c.,
to continue
with the said
Secretary in
place of the
Principal Offi-
cers.

3. All contracts, covenants and agreements made and entered into by any person or persons whomsoever with the said Principal Officers of the Ordnance, or any person or persons on their behalf, as to or concerning any lands or other real property vested in or agreed to be purchased by the said Principal Officers, or in anywise relating to the public service of the Ordnance, shall be deemed and taken to have been made or entered into with such Principal Secretary of State as aforesaid for the time being, and shall be executed and enforced by him in like manner as if he had originally been party thereto instead of the said Principal Officers of Ordnance:—And all proceedings whatsoever which have been or might have been commenced, taken or done in the names of the said Principal Officers on behalf of Her Majesty, shall be commenced, continued, taken and done in the name of such Principal Secretary of State as aforesaid, in like manner (in the case of proceedings already commenced, taken or done) as if he had originally been party thereto instead of the said Principal Officers of the Ordnance.

And so of any
proceedings
commenced.

How the said
Secretary may
be described in
deeds relating
to such pro-
perty and
rights, &c.

4. In every contract, conveyance, surrender, lease or other assurance of any lands or other real property, with, unto, or by the said Principal Secretary of State for the time being, and in every other Deed or Instrument relating to any lands, hereditaments, estates or property, or in anywise to the public service, to which the said Principal Secretary of State for the time being is or is intended to be a party, it shall be sufficient to call or describe him by the style or title of "Her Majesty's Principal Secretary of State for the War Department," without naming him;—And every such contract, conveyance, surrender, lease, assurance, deed or instrument may be executed by such Principal Secretary of State, or by any other of Her Majesty's Principal Secretaries of State for the time being, by signing his name thereto, and if the instrument so executed be in the form of a deed, by setting or affixing a seal thereto and delivering the same as his deed;—And whenever any contract, conveyance, surrender, lease, assurance, deed or instrument is executed by any other Principal Secretary of State, the Principal Secretary of State so executing the same shall, for that time, and on that occasion and for the purposes thereof, be deemed to be Principal Secretary of State for the War Department.

How such
deeds, &c.,
may be exe-
cuted.

Lands, &c., to
be hereafter
acquired, to be
vested in like
manner.

5. From and after the setting apart, grant, purchase, conveyance, demise or taking thereof, all other lands and other real property or estate or interest therein, at any time granted or purchased, or taken by such Principal Secretary of State as aforesaid, or by any person or persons for him, for the service

of the War Department, or surrendered to or taken by Her Majesty or purchased or taken by any person in trust for Her Majesty for such services, under the provisions of this Act, or of any other Act or Law, and all erections or buildings then or thereafter erected or built thereon, with the rights, members and appurtenances to the same respectively belonging, shall in like manner be, and become and remain vested in the said Principal Secretary of State, and his Successors in the said Office, according to the nature and quality of the said lands and other real property, and the several and respective estates and interests of and in the same respectively, and on behalf of Her Majesty.

6. All public Lands certified under his hand and seal by the Commander of Her Majesty's Forces in this Province, to be necessary for the erection of any fort, barrack, battery or other military work, or for preserving such work free from obstructions, may, on an order of the Governor in Council, be freely granted by Letters Patent under the Great Seal of this Province, to such Principal Secretary of State as aforesaid, in trust as aforesaid; and being so granted, may be disposed of by him in the same manner as other lands vested in him under the provisions of this Act, or of any former Act;—And all other Public Lands may be purchased by, and granted to, and vested in such Principal Secretary of State, on the payment of the price thereof by him, out of any funds provided for that purpose by the Imperial Parliament.

Public lands necessary for military works may be granted to Principal Secretary of State;

And other lands on payment thereof out of Imperial funds.

7. Provided that any lease or conveyance, or any promise of a lease or conveyance of any part of the Lands or other real property vested in such Principal Secretary of State as aforesaid, or of any estate or interest therein, made or entered into before the passing of the said Ordnance Vesting Act, by any officer or person under whose control such lands or property were placed, or in whom the same were vested in trust for the Crown, shall be held good and valid by the said Principal Secretary of State, who shall ratify and confirm the same, and execute all deeds and instruments which may be necessary for that purpose, on the terms and conditions on which such lease, conveyance or promise was made.

Secretary of State to abide by leases, &c., made by Officers of the Ordnance Department and others.

8. Any term or terms of years, or other less estate or right assigned, or reserved, in or to attend upon the inheritance or absolute property of any land or real property hereby vested in such Principal Secretary of State as aforesaid at the time the same was surrendered or conveyed to, or in trust for the Crown, shall be and remain vested in the party or trustee or trustees, his or their executors, administrators, assigns or legal representatives, to or in favour of whom the same were so assigned or reserved;—And in case, from any circumstance whatever, it is in the judgment of such Principal Secretary of State expedient so to do, such Principal Secretary of State may convey, surrender or assign all or any of the lands and other real

Terms assigned to attend inheritance.

Principal Secretary of State may assign to trustees, for

the use of the War Department.

property and premises at any time vested in him, and may direct all or any of the lands and other real property and premises agreed to be purchased or taken by him, to be conveyed, surrendered or assigned to a trustee or trustees for the use of the War Department or the defence of this Province, upon the trusts to which the same are or ought to be subject.

Principal Secretary may purchase and take lands, &c., for the service of the War Department.

9. Such Principal Secretary of State as aforesaid may from time to time contract for, purchase and take, for and on behalf of Her Majesty, Her Heirs and Successors, any lands or other real property, or any lease of, or other interest in the same which in his judgment it is desirable to purchase or take for the service of the said War Department, or the defence of this Province, upon such terms as to such Principal Secretary of State seem meet,—and may enter into any contracts necessary for that purpose;—And all such lands or other real property, estate or interest therein so purchased shall be conveyed, granted or surrendered to such Principal Secretary of State in trust as aforesaid.

Enabling clause.

Certain parties may convey to the Principal Secretary of State.

10. All bodies politic or corporate, ecclesiastical or civil,—and all feoffees and trustees for charitable or other public purposes,—and all tenants for life, or in tail, or in substitution,—and the husbands, guardians, trustees, committees, curators, tutors or attorneys of such of the owners or proprietors of, or parties interested in any lands or other real property, agreed to be purchased, or taken by such Principal Secretary of State as aforesaid, for any of the purposes aforesaid, as are married women, *femes covert*, minors, infants, lunatics, idiots, interdicted persons, or persons absent from the Province, or otherwise incapable of acting for themselves,—may validly contract and agree with such Principal Secretary of State, either for the absolute sale or exchange of any such lands, or other real property, or for the sale, grant or release of any estate, right, title or interest therein, or for the reversion thereof after any estate or estates for lives or years or other future or contingent interest, or for any term of years therein, or for such period as the exigency of the public service may require, and may convey, surrender, grant or demise the same accordingly:

Contracts, &c., to be valid.

Their legal effect.

2. And all contracts, sales, conveyances, releases, surrenders, leases and agreements made in pursuance of this Act shall be valid and effectual in law and in equity to all intents and purposes whatsoever, and shall be a full and complete bar to all dower and claims of dower, estates-tail, substitutions, mortgages, hypothecations and other estates, rights, titles, trusts, uses and interest whatsoever.

Power to sell or dispose of the property vested by this Act.

11. Such Principal Secretary of State as aforesaid may sell, exchange, or in any manner dispose of, or let or demise any lands or other real property vested in him by virtue of this Act, or any estate or interest therein so vested, or any of the said moveable and personal property hereby vested in him,—

either by public auction or by private contract,—and may convey, surrender, assign or make over, grant, demise or deliver the same (as the case may require) to any party willing to take the same in exchange or otherwise,—and may also do any other matter or thing in relation to any such lands or other real, moveable or personal property which is by such Principal Secretary of State as aforesaid deemed beneficial for the public service, and conducive to the better management and use of the property hereby vested in him, which might be done by any person having an estate or interest in the same, of the same nature as that vested in or held by such Principal Secretary of State in trust as aforesaid.

12. The moneys to arise and be produced by the sale, or exchange, demise or disposal of any such lands or other real property as aforesaid, sold or exchanged, demised or disposed of under the provisions of this Act, shall be paid by the purchaser thereof or the person making such exchange, or to whom the same are demised or disposed of, to such person or officer as such Principal Secretary of State as aforesaid shall appoint to receive such moneys, for such purposes as Her Majesty may direct;—And the receipt of such person or officer as aforesaid, (such receipt being endorsed or written upon or subjoined to the conveyance, surrender, assignment, lease or other instrument, or an authentic copy thereof,) shall effectually discharge the purchaser or person by whom or on whose account such moneys are paid.

Moneys arising from such sale to be paid to those whom the Principal Secretary of State may direct.

ACQUIRING OR TAKING LANDS REQUIRED FOR MILITARY PURPOSES.

13. Such Principal Secretary of State as aforesaid may enter upon, survey and mark out any lands or other real property which in his judgment are wanted for the service of the War Department or for the defence of this Province, and may treat and agree with the owner thereof, or with any party or person who by the preceding provisions of this Act is authorized to convey or demise the same, either for the absolute purchase of the same or of some estate or interest therein, or for the possession or use thereof, during such time as the exigence of the public service, in the judgment of such Principal Secretary of State, requires :

Principal Secretary of State may enter upon and survey lands required for the War Department, and treat for them.

2. But before entering upon and surveying or marking out any such lands or real property in the actual occupation of the proprietor or any other person, such Principal Secretary of State shall give notice of the day and hour of such intended entry, in writing, by the space of seven days, to such owner or other person, under the hand of some Officer or person duly authorized to that effect ;

Before entry, Principal Secretary to give notice in writing.

3. And nothing herein contained shall authorize such Principal Secretary of State to enter upon, take possession of, or otherwise interfere with the Lands described in the Act of the

This Act not to interfere

with the Niagara Harbour and Dock Company.

Parliament of Upper Canada, intituled, *An Act to incorporate the Niagara Harbour and Dock Company*, but the said Company shall hold, possess and enjoy the same: anything in this Act to the contrary notwithstanding.

Not to prevent the construction of any Canal or Railroad through any reserves for military purposes.

14. Nothing herein contained shall restrain or prevent the Parliament of this Province from authorizing the construction of any canal or railroad upon or over any lands reserved or set apart as aforesaid by the Governor of either of the said late Provinces as aforesaid, in Council, for Military purposes, and which by this Act are vested in such Principal Secretary of State as aforesaid.

Proceedings in case the owner refuses to sell, &c.

15. In case the person or party hereby authorized to convey or demise any lands or other real property so marked out and surveyed as aforesaid, is absent from the Province, or unknown to such Principal Secretary of State as aforesaid, or for the space of fourteen days next after notice in writing subscribed by or on behalf of such Principal Secretary of State has been served on or left at the residence or domicile of such person or party (or if the party be a body politic or corporate, having no legal domicile, then on the Chief Officer thereof, or at his usual place of residence) refuses or declines to sell, or demise, or to enter into such contract with regard to such lands or other real property, as is satisfactory to the said Principal Secretary of State, or refuses the price or consideration offered by him, then on the requisition of such Principal Secretary of State the Governor of this Province, being satisfied of the facts aforesaid, may require any Sheriff for the District, County, City, Town or place where such lands or other real property lie, to cause such Principal Secretary of State to be put into possession thereof, which such Sheriff shall accordingly do by issuing a warrant under his hand and seal, taking with him sufficient assistance;

Governor may cause possession to be given.

Jurors summoned.

2. And the said Sheriff or his Deputy shall summon twenty-four persons qualified to be Special Jurors, who stand first in order to be summoned on his lists, to be and appear at the Court House of the District or County, on a day and at an hour to be named in such warrant, and not being less than ten days after the Sheriff has put such Principal Secretary of State into possession as aforesaid, and of which day and hour he shall give notice in writing to the owner or proprietor, and to all persons whom he finds on the premises, when he gives possession thereof:

Jury formed.

3. And at the time so appointed, a Jury shall be formed out of the Jurymen so summoned, allowing to the parties, if present, their lawful challenge to any Juror or to the array, and the said Jury being sworn before the Sheriff or his Deputy authorized to issue the warrant of possession, shall, on hearing the witnesses and the evidence adduced before them, inquire of and determine the price or compensation to be paid by such Principal Secretary of State, either for the absolute purchase of the lands or other real property in question, or for the possession or use thereof, as the case may be;—And their verdict shall be

Verdict

certified by the Sheriff or his Deputy aforesaid, with the costs, to be ascertained as hereinafter mentioned, that is to say :

4. There shall be allowed to the Sheriff, for executing the warrant of possession and summoning the Jury, eight dollars, and for swearing the said Jury presiding at the inquiry and receiving the verdict, four dollars, together with necessary travelling expenses ;—to each Juror sworn two dollars, and a reasonable allowance to each material witness to be taxed by the said Sheriff ;—And such costs shall be paid by such Principal Secretary of State, unless he has tendered to the opposite party a sum at least equal to that awarded by the verdict, in which last case they shall be paid by the said party ;

Costs.

5. And the Sheriff may cause any witnesses to be summoned, and compel their appearance, and may adjourn any meeting if Jurymen or witnesses do not attend ; and such Sheriff or his Deputy may administer all necessary oaths as well to the Jurors as to the witnesses to be produced by the parties.

By 29 V. c. 7, s. 7, post page 481, the compensation for lands taken under this Act was to be determined by Official Arbitrators, and not by Jury, except in certain cases. By section 9 of the same Act (page 482, post), the notice of entry above required may be desisted from and a new one given.

16. If the Principal Secretary of State as aforesaid, or any person or party interested in the lands and other real property so marked out and taken as aforesaid, is dissatisfied with the verdict of the Jury, he may, at the term commencing next after the rendering of such verdict, if the owner or some person hereby empowered to convey such lands and other real property has had due notice of the taking thereof, or within one year, if they have been taken as belonging to some party unknown, or as being absent from the Province, and having left no known person therein, who might convey or demise the same on behalf of such party,—apply to the Superior Court in the District in which the lands and other real property lie if the same are in Lower Canada, or to the Court of Queen's Bench or of Common Pleas, if the same are in Upper Canada, and may suggest that he has reason to be dissatisfied with such verdict, and give notice of such application to the opposite party, and give security to the satisfaction of the Court for the payment of costs,—and thereupon the proceedings which have been had in the matter and the verdict of the Jury shall be returned into Court, and if it appears to the Court that the application ought to be granted, then the Court shall direct the compensation payable to be assessed and ascertained by a Jury according to law and the course and practice of the Court, and as any damages may be inquired of and ascertained by a Jury,—and the verdict of such Jury shall be final and conclusive, unless a new assessment of such damages is for sufficient reason granted by the Court according to the course and practice thereof and to law.

Appeal to the Superior Courts of law.

Security for costs.

Jury to be directed to inquire of compensation.

New assessment.

Jury may assess separately the compensation to be paid to any lessee.

17. Any such Jury, either in the first instance or on an appeal to the Superior Court, Court of Queen's Bench or Common Pleas as aforesaid, may ascertain the proportion of the compensation money to be paid to any lessee or tenant at will, or otherwise, of the land or other real property in question, or of any part thereof, and may return the same as part of their verdict :

If lessee or tenant at will is alone dissatisfied, or vice versa.

2. And where any such appeal is had solely on the application of a party dissatisfied with the sum awarded to be paid out of the compensation to any lessee or tenant at will, or otherwise, such Principal Secretary of State as aforesaid shall not be made a party to such appeal, and the total amount of the compensation awarded by the former Jury shall not be altered ;— And if the appeal is had solely on the application of any party dissatisfied with the total amount of compensation awarded by the former Jury, the lessee or tenant at will shall not be made a party to such appeal, and the sum awarded to be paid to him shall not be altered.

Lands for which compensation is awarded to be vested in Principal Secretary of State.

18. All lands and other real property of which possession has been given to such Principal Secretary of State as aforesaid under such warrant as aforesaid, and for the absolute property of which the compensation has been ascertained by the verdict of a Jury, in the manner hereinbefore prescribed, shall be vested in such Principal Secretary of State, in trust as aforesaid ;—And the payment or tender of the compensation to any parties who might, without this Act, have conveyed the same, or the interest, or the estate therein, for which such compensation has been awarded, or the payment thereof in the manner provided by this Act, when such party acts on behalf of others, shall for ever bar the right or claim of such party, and those for whom he acts, in or to such lands or other real property :

Proviso : in what cases only lands may be taken without the consent of the owner.

2. But no such lands or other real property shall be so taken in absolute property, without the consent of some party who might, under this Act, convey the same, nor for any term of years, or other term, without the consent of some party who might have demised the same for such term,—unless the necessity for taking the same has been first certified under his hand and seal by the Commander of Her Majesty's Forces in this Province, or unless an enemy has actually invaded this Province, when such lands or real property are so taken.

Principal Secretary of State may remove buildings erected by him on lands taken for a term only ; paying for any damage done to the soil, etc.

19. In all cases where any lands or real property have been demised to, or taken by such Principal Secretary of State as aforesaid, for any term of years, or for such period only as the exigencies of the public service require,—such Principal Secretary of State may, notwithstanding anything in this Act or in any other Act or Law, at any time before they deliver up possession of the same, take down and remove all buildings or other erections built or erected thereon for the public service, after such lands or real property were demised to, or taken by such Principal Secretary of State, and may carry away, sell or dispose of the materials thereof, making such compensation to

the owner of such lands or real property, or to the person authorized to act on his behalf, for the damage or injury done to such lands or real property by the erection of such buildings or otherwise in consequence of the same having been occupied for the public service, as such Principal Secretary of State thinks reasonable, or as may be agreed upon in that behalf :

2. And if the owner or person authorized to act on his behalf is not willing to accept the compensation so offered, such Principal Secretary of State may apply to, and require any two Justices of the Peace for the district, county, city or place, to settle and ascertain the compensation which ought to be made for such damage or injury as aforesaid, and such Justices shall settle and ascertain the same accordingly, and shall grant a certificate thereof;—and the amount so ascertained shall be forthwith paid by such Principal Secretary of State to the person or party entitled to the same ;

Damage done, how ascertained in case of dispute.

3. But nothing in this Act contained shall extend to alter, prejudice or affect any agreement entered into by such Principal Secretary of State, with the owner of any lands or real property, or any person authorized to act on his behalf, with regard to any such buildings or erections, but every such agreement shall remain valid and effectual, according to the intent and purport thereof.

Agreements not to be affected.

PAYMENT OF PURCHASE MONEY, &c.

20. Where any lands or real property have been taken by such Principal Secretary of State as aforesaid, under a warrant of possession, without the consent of any party who could convey or demise the same to such Principal Secretary of State,—then the compensation money awarded by the verdict of a Jury in the manner aforesaid shall remain in the hands of such Principal Secretary of State until it be claimed by some party who might have conveyed (or demised, as the case may be) such lands or real property, and shall execute such deed or warranty, and quit claim to such Principal Secretary of State as may suit the case, bearing simple interest at the legal rate during two years (if it remains in their hands so long), but not afterwards.

Compensation for lands taken from absentees to remain in the hands of the Principal Secretary of State until claimed by some competent party.

21. *Relates to Quebec only.*

22. Except as hereinafter provided,—Where any money has been agreed, or required by the verdict of any Jury to be paid by such Principal Secretary of State as aforesaid, for the absolute purchase or exchange of any lands or other real property lying within Upper Canada, or of any estate or interest in such lands or real property, which has been conveyed by or taken from any body politic or corporate, person or party, who without this Act would have been unable legally to convey the same, or has not the absolute interest therein,—such money shall not (except as hereinafter excepted) be paid into the hands

As regards compensation for lands purchased or taken in U. C. from parties not having the absolute interest, Principal Secretary of State to file in Queen's Bench copy of the

deed and declare himself ready to pay the money.

of the person or party who makes and executes the sale, exchange or other conveyance, warranty or quit claim, but such Principal Secretary of State shall, forthwith after the execution thereof, file a copy of the deed or instrument (certified as correct by some Justice of the Peace who has compared the same with the original, and also by some person authorized to act on behalf of such Principal Secretary of State,) in the office of the Clerk of the Crown, in the Court of Queen's Bench or the Court of Common Pleas, with a declaration that such Principal Secretary of State is ready to pay over the said money to such trustee, person or officer, as any two Justices of the Court shall appoint to receive the same ;

The Justices of the Court may, on the application of any party interested, make such orders as may be necessary to secure the rights of the parties.

2. And upon the application of any person or party having an interest in the said money, two Justices of the Court, upon reading the said declaration, deed or instrument, and receiving such further satisfaction as they deem necessary, may, in a summary way, make and pronounce such orders and directions for paying the said money or any part of the same, or for placing such part thereof as is principal in any public securities of this Province, or real securities, and for the payment of the dividends or interest thereof, or any part thereof, to the respective parties entitled to receive the same, or for laying out the principal or any part thereof, in the purchase of lands or other real property, to be conveyed and settled to, and for, and upon the same uses, trusts, interests or purposes, as the lands or other real property for which such money is the compensation, stood settled at the time they were conveyed, or taken as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said moneys or any part thereof, for the benefit of the party or parties entitled to or interested in the same, respectively, or for appointing any person or persons to be a trustee or trustees for all or any of such purposes, or for requiring any security from any person to whom such moneys, or any part thereof, are to be paid or entrusted,—as to the said Justices shall appear just and right ;—And all such orders and directions shall be obeyed by such Principal Secretary of State, and the receipt of the person or officer to whom they pay the said money, or any part thereof, in obedience to such orders and directions, shall be their valid discharge for the money so paid.

Cases in Upper Canada when the compensation is less than \$800 but exceeds \$80.

23. Provided that in any case where such moneys, as are lastly hereinbefore mentioned, are less than eight hundred dollars, and exceed eighty dollars, the same shall, at the option of the party for the time being entitled to the rents and profits of the land or other real property purchased or taken, or of the guardian or guardians, committee or committees of such party in case of infancy or lunacy, to be signified in writing under their respective hands, be paid as aforesaid, under the orders and directions of two Justices of the said Court of Queen's Bench or Common Pleas or otherwise, at the like option shall be paid to three trustees nominated by the party making such option, and approved by such Principal Secretary of State as afore-

said (such nomination being signified in writing under the hands of the nominating and approving parties), in order that such money may be invested in the purchase of public securities of the Province, and that such stock, when purchased, and the dividends arising therefrom, may be applied in the manner hereinbefore directed, so far as the same may be applicable, without obtaining the order and direction of any Justices of the Court, and with the same effect as if such payment had been made under such orders and directions.

24. Provided also, that in any case where the compensation or purchase money is less than eighty dollars, the same shall, whether the lands or real property for which the same are payable is in Upper Canada or in Lower Canada, be applied to the use of the party who would, for the time being, be entitled to the rents and profits of such lands, and shall be paid to such party, or to any person who might lawfully receive such rents and profits, for the use of such party, with the same effect as if the same had been paid into the hands of any Sheriff in Lower Canada, or under the order of any two Justices of either of the said Courts in Upper Canada.

Cases either in Upper or Lower Canada when the compensation is less than \$80 provided for.

25. If any question arises touching the right of any party to any money or public securities arising from any such compensation or purchase money as aforesaid, and entrusted to or vested in any trustee or trustees, or other person or persons pursuant to the directions of this Act,—the party by whom or on whose behalf the lands or other real property, estate or interest, for which the said money was payable, have been conveyed, warranted or quit claimed, to or in favour of such Principal Secretary of State as aforesaid, shall be held to have been lawfully entitled to convey the same until it be proved, by the judgment of some Court of competent jurisdiction, that some other person was entitled to such lands or real property, estate or interest.

Parties conveying lands to Principal Secretary of State to be deemed to have been lawfully entitled so to do, until the contrary be proved in all questions as to any claims for compensation.

26. No enrolment of any deed conveying any lands or other real property, or any estate or interest therein, to such Principal Secretary of State as aforesaid, shall be necessary to vest the same in him, in trust as aforesaid; but such Principal Secretary of State may at his option cause any deed or instrument, not being a notarial instrument, relating to any lands or real property vested in him, to be enrolled, upon payment of the usual fees, in the office of the Provincial Registrar, without it being necessary for him to produce to that officer any proof of the execution of such deed or instrument; and a copy of such enrolment signed by the Provincial Registrar, and proved upon oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed or instrument in any Court of Law and Equity, and on every occasion shall have the same force and effect, to all intents and purposes, as such deed, instrument or document would have, if the same were respectively produced and shown forth.

Enrolment of deeds to Principal Secretary of State.

CHANGING TENURE OF LANDS.

21. *Relates to Quebec only.*

BRINGING SUITS, EXECUTING DEEDS, &c.

Principal Secretary of State empowered to bring actions in matters relative to property held by him,

28. Such Principal Secretary of State as aforesaid may bring, prosecute and maintain any action of ejectment, or other actions and proceedings, either in law or equity for recovering possession of any lands or other real property vested in him, or to which he may become entitled under the provisions of this Act, or otherwise howsoever, and may distrain or sue for any arrears of rent or any other dues of any kind, due for, or in respect thereof, under any parol, or other demise, grant or concession from such Secretary of State or from the said Principal Officers of the Ordnance, or from Her Majesty, of any person or Officer acting for or on behalf of Her Majesty, or of any party holding such lands or real property in trust for Her Majesty, and may also bring, prosecute and maintain any other action, suit or proceeding in law or equity in respect of any such lands or other real property, or of any right or interest therein, or of any trespass or encroachment committed thereon, or damage or injury done thereto,—and also upon all covenants and contracts whatsoever, made by, to, or with such Principal Secretary of State or the said Principal Officers, and in any way relating to such lands and real property, or to the service of the War Department, or the defence of this Province;

Or as to goods, money, &c.

2. And such Principal Secretary of State may also bring, prosecute and maintain any other action, suit or proceeding in law or equity, civil or criminal, concerning the goods or chattels, stores, moneys, or other property under the care, control or disposition of the said Principal Secretary of State;

Style by which the Principal Secretary of State may sue.

3. And in every such suit, action or other proceedings, such Principal Secretary of State shall be called “Her Majesty’s Principal Secretary of State for the War Department,” without naming him; And such Principal Secretary of State may by the said name be sued, impleaded or prosecuted, and may answer and defend any suit, action, prosecution or proceeding brought or instituted against them in any Court of Law or Equity in this Province, by any person or party whomsoever; And no suit, action or other proceeding to which such Principal Secretary of State is a party, shall abate, or be discontinued, or interrupted by the death, resignation or removal of such Principal Secretary of State.

suits are to be brought against the Principal Secretary of State and service of process therein regulated.

29. All suits, actions or proceedings to be brought or instituted against such Principal Secretary of State may be brought or instituted in the Court within the local jurisdiction whereof the lands or other real property to which such suits, actions or proceedings may respectively relate is situate or the cause of action has arisen,—And service of any process, order, notice or

other document required to be made in any suit, action or proceeding to which such Principal Secretary of State is a party, shall be deemed to be validly made upon him by leaving a true copy thereof at the Office of the respective Officers of the War Department within the local jurisdiction of the Court in which such suit, action or proceeding is brought or pending, or if there be no such Office within the jurisdiction of such Court, then at the Office of the Senior Civil Officer of the said Department within such jurisdiction.

30. In all suits, actions and other proceedings at law or in equity, in which a verdict passes, or a judgment or decision is given for or in favour of such Principal Secretary of State as aforesaid, he shall, in addition to all damages to which he is entitled, have judgment for his full costs and charges in such suits, actions or proceedings, to be assessed and taxed against the defendant or other opposing party, and to be recovered and levied in the same manner and form as they might have been assessed, taxed, recovered and levied in favour of any private party, and in all cases of judgments or decisions given against such Principal Secretary of State, he shall pay full costs and charges to the successful party.

He may recover costs.

31. Nothing herein contained shall be taken to defeat or abridge in any such suit, action or other proceeding, the legal rights, privileges and prerogatives of Her Majesty,—But in all such suits, actions and other proceedings brought or instituted in the name of such Principal Secretary of State as aforesaid, and in all matters relating thereto, such Principal Secretary of State may claim, exercise and enjoy all the same rights, privileges and prerogatives which have been heretofore claimed, exercised and enjoyed in any suits, actions or proceedings whatsoever in any Court of Law or Equity, by Her Majesty or Her Royal Predecessors, in the same manner as if the subject matter of such suits, actions or other proceedings were vested in Her Majesty, and as if Her Majesty were actually made a party to the same: Provided that Her Majesty may, if so advised, proceed by information in the proper Court, or by any other Crown process, legal or equitable, in any case in which such suits, actions or other proceedings might otherwise have been instituted by such Principal Secretary of State.

Her Majesty's privileges and rights of proceeding not to be abridged.

32. Such Principal Secretary of State as aforesaid may give any notice and make any entry, claim or demand which it is requisite or expedient to give or make on behalf of Her Majesty, with a view to compel any tenant, lessee or occupier of any lands or other real property vested in such Principal Secretary of State, under the provisions of this Act, to quit or deliver up possession thereof, or to compel the performance of any covenant, contract or engagement relating thereto, or to recover possession on non-performance of any covenant, contract or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and may give any other

Power to give notices, make entries, &c., in matters relative to property held by him.

notice and make any claim or demand, or do any other act or thing which it is requisite to make, give or do, on behalf of Her Majesty, touching or concerning any such lands or other real property, or any right, title or interest therein, and the same, being so made, given or done, shall be valid and effectual to all intents and purposes whatsoever.

May depute all or any of his powers under this Act to such persons or officers as he may think proper.

33. Such Principal Secretary of State as aforesaid may from time to time, and as occasion requires, authorize and empower any person or persons, or any officer or officers, by his or their name or title of office, to exercise and execute all or any of the powers, authorities and duties, or to perform and do and execute any acts, deeds, matters and things which by virtue of this Act, such Principal Secretary of State may exercise, execute, perform or do, as validly and effectually as such Principal Secretary of State might exercise, execute, perform and do the same, and may revoke such authority at pleasure;—And such authority shall, notwithstanding the death, resignation or removal from office of the Principal Secretary of State who gave the same, remain in force as if given by such Principal Secretary of State for the time then being, until revoked by the Principal Secretary of State for the time being.

Power of those deputed to remain notwithstanding the removal, &c., of the Secretary of State.

Secretary of State not to be personally responsible.

34. Nothing contained in this Act, or contained in any covenant, contract, lease or other instrument hereby authorized to be entered into, made, taken or executed by such Principal Secretary of State as aforesaid, or by any person or officer acting under him, shall extend to charge the person of such Principal Secretary of State, person or officer, executing such covenant, contract, lease or other instrument, or their heirs, executors, administrators or other legal representatives, or their or any of their own proper lands and tenements, goods or chattels with the performance of any of the covenants, conditions and agreements in such covenants, contract or lease, or other instrument entered into on the part of such Principal Secretary of State for the public service, and by his name of office as aforesaid; nor shall any officer of the War Department be personally liable, nor shall any property of such officer be liable to any legal process or execution in such suits, actions or other proceedings as aforesaid.

Act 7 V. c. 11, repealed as to lands transferred to the Province.

35. With respect to all lands and other real property comprised in the second Schedule to the *Act respecting the Ordnance and Admiralty Lands transferred to the Province*, which are hereby vested in Her Majesty for the benefit, use and purposes of this Province, the said Ordnance Vesting Act, and every clause, matter and thing therein contained, is and are repealed.

SCHEDULE

REFERRED to in this Act, being the Schedule of Military Lands in Canada, to be vested in one of Her Majesty's Principal Secretaries of State.

QUEBEC *Certain lands,*

MONTREAL *Certain lands.*

KINGSTON { All the Military Works on the east and west of the Harbour and the lands connected with them not named in the Second Schedule to Chapter 24 of the Consolidated Statutes.

NIAGARA { Fort Mississagua, with its Glacis and other appurtenances.

SOREL *Certain lands.*

25 VICT. CAP. 2.

An Act to extend the provisions of an Act respecting lands and real property held or required by the Imperial Government for the Military defence of this Province, to the construction of lines of Telegraph connected with such defence.

[Assented to 9th June, 1862.]

WHEREAS it is expedient to authorize and facilitate the construction of lines of Electric Telegraph in this Province for purposes connected with the military defence thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. Her Majesty's Principal Secretary of State for the War Department may construct, hold and work any line or lines of Electric Telegraph in and over any part or parts of this Province, and may acquire and hold all such lands, and may construct, hold and use all such buildings and other works of any kind whatever, as may be required for the efficient and easy working of the line or lines—and may take, use and occupy for the necessary purposes of any such line of Telegraph, any of the public lands of the Province or any timber or materials from off the same—and may take, use and occupy any other unoccupied and uncleared lands, for the purpose of erecting such necessary fixtures as aforesaid, on any such line, and may take timber and materials for the same from off such land, making compensation when thereunto required for any damages thereby

Preamble:
construct lines of
Telegraph
over any part
of the Pro-
vince.

As to public
roads and na-
vigable waters.

done to the owner thereof—and may carry any such line of Telegraph along and upon any of the public roads or highways, or across any of the waters of this Province, by the erection of the necessary fixtures, including posts, piers and abutments, for sustaining the cords or wires of any such line, provided the same are so constructed as not to incommode the public use of such roads or highways, or to impede the free access to any house or other building erected in the vicinity of the same, or injuriously to interrupt the navigation of such waters; but nothing herein contained shall authorize the building of a bridge over any navigable water without the consent of the Governor in Council.

Such lines to
be within the
scope of Chap-
ter 36 of the
Consolidated
Stat. of
Canada.

2. In time of war every such line of Telegraph, and in time of peace any such line of Telegraph, the necessity of which to the defence of this Province shall have been certified under his hand and seal by the Commander of Her Majesty's Forces,—shall be held to be a work required for the defence of this Province, and for and in respect of which and of any lands required for it, or any lands in which any estate or interest therein, or the possession or use whereof, is required for it, the said Principal Secretary of State shall have all the powers and rights vested in him by *An Act respecting lands and real property held or required by the Imperial Government for the military defence of this Province*, with respect to lands and other real property which, in his judgment, are wanted for the defence of this Province.

Proviso: as to
powers for
taking lands
required.

Provided always, that the certificate of the Commander of Her Majesty's Forces in this Province, that any line of Telegraph therein described is necessary for the defence of this Province, shall be held to be and have the effect of a certificate under section eighteen of the said Act, of the necessity of taking any lands or real property, or any estate therein, or the possession or use thereof, required for the construction and use of such line of Telegraph;—and any Judge of the Superior Court in Lower Canada, or any Judge of a County Court in Upper Canada, shall, as regards any such land or property within the limits of his jurisdiction, have the power vested in the Governor by the fifteenth section of the said Act, and being satisfied that the previous requirements of that section have been complied with, may, upon the application of the officer or person in charge of the construction of such line or of any part thereof, issue a requisition or order to the Sheriff under the said fifteenth section, and the Sheriff shall act thereon in like manner, and the same shall have the like effect and consequences, as if issued or made by the Governor of this Province;—and the signature and seal affixed to any such certificate as aforesaid, and purporting to be those of the Commander of Her Majesty's Forces, and the alleged authority of the officer or person in charge of the construction of such line or part of a line of Telegraph, shall be deemed authentic and admitted without proof, unless the contrary be expressly alleged and shewn.

Judges may
order Sheriff
to give posses-
sion, &c.

3. Every line of telegraph, and the posts, fixtures and appurtenances thereof, whether standing on lands vested in, or merely in possession of, the said Principal Secretary of State, shall be held to be his property, so far as to enable him to maintain any action with respect to the same, and as regards any offence committed in respect thereof, as fully as if the absolute property of such land were vested in him; and he shall be held to be the party aggrieved by any injury thereto.

Lines vested in War Department.

4. The foregoing provisions shall be construed as forming one Act with the Act herein first above cited, and all the powers hereby vested in the said Principal Secretary of State may be exercised by his deputies under said Act; and all words and expressions shall have the same meaning in this Act as in the said Act.

Act to be construed with Chap. 36 Con. Statutes Canada.

5. Any power vested in Her Majesty by any Provincial Act of assuming either temporarily or permanently the possession of any line of telegraph within this Province, or any preference to which Government messages or despatches are entitled on any such line, may, with the sanction of the Governor in Council, be exercised by the said Principal Secretary of State on behalf of Her Majesty; and any power vested in the Commissioner of Public Works may, with the like sanction, be exercised in aid of the said Principal Secretary of State, in respect of any such line of telegraph, as if it were one of the Public Works of this Province.

Certain powers may be used in aid of Military authorities.

6. The twenty-first, twenty-second and twenty-third sections of *An Act respecting Electric Telegraph Companies*, chapter sixty-seven of the Consolidated Statutes of Canada, and all other Acts and provisions of law for preventing or punishing malicious injuries to any line of electric telegraph, shall apply to any offence committed with respect to any line of telegraph constructed under the authority of this Act.

Provisions for protection of Telegraphs. Con. Stat. Canada, c. 67.

See the sections referred to above, under Title VII, post.

29 VICT. CAP. 7.

An Act to extend and amend the Acts respecting Public Works, to and with respect to Works connected with the Defence of the Province.

[Assented to 18th September, 1865.]

WHEREAS it is necessary to amend the chapter twenty-eight of the Consolidated Statutes of Canada, respecting the Public Works, and the Act twenty-fourth Victoria, chapter four, amending the same, so as to extend the same to works required for the defence of the Province, and also to

Preamble.
Con. Stat.
Can. c. 28;
V. c. 4.

amend the Act chapter thirty-six of the said Consolidated Statutes, respecting lands and real property held or required by the Imperial Government for the Military defence of this Province: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

C. S. C. c. 28 and 24 V. c. 4 are superseded by 31 V. c. 12, see that Act post. C. S. C. c. 36 is printed ante pp. 461-477.

Works for defence to be Public Works within the said Acts.

1. All works connected with the defence of this Province, shall be Public Works within the meaning of the tenth section of the Act first cited in the Preamble of this Act, and the said Act and the Act secondly cited in the Preamble, shall apply to such works as if they had been mentioned in the said section, subject to the provisions of this Act.

Clearance rights.

Powers of Commissioner extended to in respect of lands required for defensive purposes.

2. The powers of the Commissioner of Public Works, and all the provisions of the Acts firstly and secondly cited in the preamble to this Act, not inconsistent with this Act, shall extend to the demolition or removal of all such buildings, walls, woods, trees, fences or other obstructions, natural or artificial, and to the filling up of such hollows, natural or artificial, as would, in the opinion of the engineers, civil or military, employed on any such work as is mentioned in the next preceding section, impair the effect of such work, and being on any lands within a distance not exceeding two miles from such work, without acquiring the land itself, and to the preventing the construction or existence of any such obstruction thereafter; and if the owner or occupier of any such land refuses or fails to agree with the Commissioner as to the compensation to be paid for the exercise of any powers hereby given, the Commissioner may tender a reasonable compensation in his estimation for the same, with notice that the question will be submitted to the Official Arbitrators mentioned in the Acts firstly and secondly cited in the preamble to this Act; and in such case, at any time within three days after such tender and notice, the Commissioner may enter upon such land and cause the work mentioned in such notice to be performed, and may, at any time or times thereafter, again enter upon such land after like notice, and remove any such obstruction as aforesaid, so as to restore such land to the state in which it was after the performance of the work mentioned in the first notice; and the compensation agreed upon, or awarded by the said Arbitrators, shall include the exercise of the power last mentioned, and if the renewal of any such obstruction has been caused by the fault of the owner of the lands, or of those through whom he claims, the cost of removing it may be recovered from him by the said Commissioner.

How amount of compensation for lands subjected to clearance rights shall be ascertained.

Power to re-enter to remove obstructions.

Costs if renewal of obstruction be owner's fault.

Limitation of right of entry.

3. The right of entry given by the next preceding section shall be so exercised that the work may be completed within six months from the giving of the notice thereof, and not afterwards, except after new notice.

4. Her Majesty's Principal Secretary of State for the War Department shall have the same powers and rights with regard to the taking or taking possession of lands or materials required for any work connected with the military defence of the Province, and with regard to lands required to be cleared and kept clear of obstructions as aforesaid, as are vested by the preceding sections of this Act and the Acts therein cited, in the Commissioner of Public Works; and the price to be paid for such lands or the compensation to be paid for the exercise of such powers and rights, if not agreed upon by the parties, shall be determined by the said Official Arbitrators in the manner provided by the Acts firstly and secondly cited in the Preamble to this Act, and subject to the provisions thereof, except that the testimony of witnesses shall not be taken down in writing.

Same powers conferred on the War Department, as vested in Commissioner of Public Works.

Compensation how determined.

5. The powers vested by this Act in the Commissioner of Public Works and in the said Principal Secretary of State, respectively, shall be exercised only in respect of lands, the necessity of acquiring or taking which for the defence of the Province has been or shall be certified by the Commander of Her Majesty's Forces in this Province, under his hand and seal, or with respect to which he shall have certified in like manner that the exercise of any other of such powers is necessary for such defence, unless the consent of the owner of the lands has been obtained or an enemy has actually invaded this Province; nor shall any such power be exercised by the Commissioner of Public Works, except with respect to such works as shall be designated for the purpose by the Governor in Council.

Powers only to be exercised only with respect to lands duly certified to be required for defence.

And if by Commissioner of Public Works.

6. If, in any case where the said Principal Secretary of State has given the requisite notice, any resistance be offered or feared to his taking possession of the lands mentioned in such notice, or to his entering thereon and performing the work mentioned in such notice, then on application on behalf of the said Principal Secretary of State, any Judge of the Superior Court in Lower Canada, or any Judge of the County Court in Upper Canada, may command the Sheriff of the district, county, or place where the lands lie, to put the said Secretary of State in possession thereof, or to enforce such right of entry, which such Sheriff, taking with him sufficient assistance, shall accordingly do.

Proceedings in case of resistance to the taking possession.

7. So much of the Act thirdly cited in the preamble to this Act, as requires any Sheriff to summon a jury to enquire of and determine, or as authorizes any jury to enquire of and determine the price or compensation to be paid by the said Principal Secretary of State, for the absolute purchase or for the possession or use of any lands or real estate, of which such Sheriff has put or shall put the said Principal Secretary of State into possession, is hereby repealed as to any case in which the Jury has not been summoned at the time of the passing of this Act, but not as to any case in which a jury has been sum-

Compensation for lands taken under Con. Stat. Can. cap. 36, to be determined by Official Arbitrators, except in certain cases.

Sheriff to
return his
doings to
arbitrators.

moned and has sat but has been discharged without rendering a verdict;—and such price or compensation shall be enquired of and determined by the Official Arbitrators aforesaid, (whose award shall stand in the place of the verdict of a Jury for all the purposes of the said Act,) in the manner prescribed by and subject to the provisions of the Acts firstly and secondly cited in the Preamble to this Act, except that the testimony of witnesses shall not be taken down in writing; and the Sheriff who has given or shall give possession of any lands or real property to the said Principal Secretary of State shall certify to the Official Arbitrators his doings in that behalf when by them required so to do.

By 31 V. c. 12 s. 51, post page 528, this Act is to be construed as referring to that Act, and to the Arbitrators therein mentioned, instead of the Arbitrators mentioned in this Act.

Recital.

Con. Stat. Can.
cap. 36, sec.
21, repealed,
and new provi-
sion substitut-
ed.

8. And inasmuch as the twenty-first section of the Act thirdly cited in the Preamble to this Act applies only to the case where the party conveying any property to the said Principal Secretary of State could not have legally conveyed the same without the said Act, or has not the absolute interest therein, and not to the case where there are merely hypothecs or incumbrances on such property, and the ordinary proceedings for confirmation of title cannot be applied in such case; therefore the said section is hereby repealed, and the following section shall be substituted therefor, and shall be read as part of the said Act as hereby amended:

The section referred to relates only to Quebec.

Notice of entry
upon lands
may be desist-
ed from.

Notice under
Con. Stat.
Can. c. 36, good
under this
Act.

No notice for
survey re-
quired; offer
by Secretary of
State, &c.

9. The said Principal Secretary of State may desist from any notice given under this Act or the fifteenth section of the Act thirdly cited in the Preamble to this Act, and may give new notice either for the same or any greater or less extent of lands; any notice given under the said section before the passing of this Act shall be held to be a sufficient notice to enable the said Principal Secretary of State to take or to be put into possession of the lands therein mentioned, either under this Act or under the said section, and to refer the question of price to the said Official Arbitrators; no notice of entry to survey shall hereafter be requisite under the said Act, but the said Principal Secretary shall have the same powers as the Commissioner of Public Works to make surveys; any written offer made by the said Principal Secretary of State to pay any sum of money, shall be held to be a legal tender thereof; and the said Principal Secretary of State shall not be bound to give security in any case of appeal or other proceeding.

Change in
ownership of
land after no-
tice given, not
to affect pro-
ceedings.

10. No change in the ownership of any real estate after notice under this Act or the Act thirdly cited in the Preamble to this Act, that such real estate is required for the defence of the Province, shall affect the said notice or the proceedings conse-

quent upon it, or the verdict or award in the case, or the possession or title of the said Principal Secretary of State; nor shall any improvement made on any real estate after such notice, be taken into consideration in determining the price or compensation to be awarded.

No improvement made after the same.

11. Nothing in this Act shall impair or affect any right or power given to the said Principal Secretary of State by the Act thirdly cited in the Preamble to this Act or any provision of the said Act not expressly repealed by or inconsistent with this Act which shall be construed as forming part of the said Act, the provisions whereof as hereby amended shall apply to lands taken under this Act; and the compensation to be paid for the exercise of the powers mentioned in the second section of this Act may be agreed upon, and the requisite covenants to keep the land for ever clear of the obstructions mentioned in the notice in that behalf may be entered into, so as to bind all future owners and possessors of the land, by any party who could, under the said Act, convey such lands to the said Principal Secretary of State,—and such compensation shall be paid to such party on his entering into such covenant, saving any just claim of any other party against him for such compensation or any part thereof.

Rights of the War Department under Con. Stat. Can. c. 36, not affected by this Act except where expressly provided.

Compensation for clearance rights, to whom payable.

12. Any authority given by the said Principal Secretary of State to any person to exercise any of the powers given by the Act thirdly cited in the Preamble to this Act, shall extend to the exercise of the powers given for like purposes by this Act; and the authority of any officer in Her Majesty's army to exercise any power given to the said Principal Secretary of State by the said Act or by this Act, shall not be called in question, except by some superior officer in Her Majesty's army or by the said Principal Secretary of State.

Delegation of authority to exercise powers under c. 36, to include those given under this Act.

13. All works connected with the defence of the Province shall be Public Works within the meaning and scope of chapter twenty-nine of the Consolidated Statutes of Canada respecting riots near Public Works, and of chapter thirty of the said Consolidated Statutes respecting the sale of Intoxicating Liquors near Public Works; the word "lands" or "real estate" in this Act includes all houses, buildings, or real property of any kind; the citation of the Act first cited, or of the Act thirdly cited in the Preamble to this Act, shall be a sufficient citation of the Act so cited as amended by this Act; and the expression "this Act" in either of the said Acts, shall mean the Act wherein it occurs as amended by this Act.

Certain Acts to apply to works for defence.

Interpretation.

C. S. Can. c. 29 is almost entirely superseded by 32-33 V. c. 24 (Dom.). and 33 V. c. 28 (Dom.) C. S. Can. c. 30 is repealed by 32-33 V. c. 36 (Dom.)

29-30 VICT. CAP. 21.

An Act to amend the Act twenty-ninth Victoria, chapter seven, respecting works connected with the Defence of the Province.

[Assented to 15th August, 1866.]

Preamble.
29 V. c. 7.

WHEREAS it is expedient to remove doubts under the seventh section of the Act passed in the twenty-ninth year of Her Majesty's Reign, intituled: *An Act to extend and amend the Acts respecting Public Works to and with respect to works connected with the defence of the Province*, so as to provide for the decision of certain cases not provided for in the said section: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, declares and enacts as follows:

Provision
made in cases
unprovided for
in the said
Act.

1. In any case mentioned in the said seventh section, in which a jury had not sat before the passing of the said Act, or in which since the passing thereof the jurors have been discharged as having been tampered with by the party to whom the price or compensation is to be paid, or otherwise through his fault, without rendering a verdict, such price or compensation shall be enquired of and determined by the official arbitrators in the manner provided in other cases in and by the said section and Act.

C. S. C. CAP. 37.

An Act respecting Lands and Real Property held by the Imperial Authorities for the Naval Defence of the Province.

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

PROPERTY VESTED IN ADMIRALTY COMMISSIONERS.

Lands vested
in the Com-
missioners of
the Admiralty.

1. All docks, dock-yards, arsenals, piers, wharves, quays, slips, messuages, lands, lands covered with water, beaches, beds of rivers, canals, roads and works connected therewith, tenements, estates and other hereditaments, real property,

rights, easements and servitudes whatsoever (all which things shall be intended by the words "Lands and other Real Property" wheresoever they occur in this Act) within this Province, and immediately before the passing of the Act 14, 15 V. c. 17 (30th August, 1851), vested in Her Majesty, the Lord High Admiral or Commissioners for executing the office of Lord High Admiral aforesaid, or in any other person or persons, officer or officers, commissioner or commissioners in trust for Her Majesty, and set apart, used or occupied for purposes connected with the naval defence of this Province or any other the purposes aforesaid, or placed under the charge or control of the officers of Her Majesty's Navy, or any of them, whether the same became vested in Her Majesty or Her Royal Predecessors for such purposes by the cession of this Province, or have been by Her or them set apart or transferred from the lands, demesnes, or other real property of the Crown, or from the Clergy Reserves, or have been intended to be so set apart or transferred for any of the purposes aforesaid, or have heretofore been purchased for such purposes or any of them, by any officer or other person whomsoever for any such purpose, and paid for out of funds provided for that purpose by the Parliament of the United Kingdom, and surrendered or conveyed to Her Majesty or Her Royal Predecessors, or to some person in trust for Her or them, or have been set apart or transferred, or have been taken for any such purposes under the authority of any Act or law in force in this Province, or in any part thereof, by whatsoever mode of conveyance the same have been purchased and taken, and whether in fee or absolute property, or for any life or lives or term or terms of years, or for any lesser interest, or *à titre de cens*,—and more especially, but without intending that the enumeration or specification thereof should exclude any other lands or real property within the descriptions aforesaid, the lands and other real property mentioned and described in the Schedule to this Act annexed, and all such lands and other real property, and all others which, having been acquired and purchased or taken for the Crown, and the price or compensation thereof paid out of funds provided by the Imperial Parliament, Her Majesty shall be pleased to direct to be vested as hereinafter mentioned, and all erections and buildings which now are erected or built thereon, whether before or after the said 30th day of August, 1851, together with the rights, members and appurtenances to the same respectively belonging,—and also all the moveable and personal property of Her Majesty held or used for the services and purposes aforesaid, or any of them, are and shall be vested and shall remain vested in the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland for the time being, and their successors in the said office for ever, according to their respective nature and quality, and the several estates and interests therein, subject to the provisions of this Act, and in trust for Her Majesty, Her Heirs and Successors, for the service of the said department, or for such other services as Her Majesty,

Her Heirs or Successors, or the said Commissioners for the time being, may direct;

Proviso.

2. But nothing in this Act shall extend to vest in the said Commissioners any lands or buildings which have been purchased or erected for Provincial purposes with funds provided by the Legislature of this Province, or of either of the late Provinces of Upper or Lower Canada, unless the same have been lawfully purchased by and conveyed to the said Commissioners under the provisions of some Act or Law in force in this Province, or any lands or buildings belonging to the Civil Government of the Province, notwithstanding that the same may have been under the charge and control, or in the use or occupation of the Lord High Admiral or Commissioners of the Admiralty, or any subordinate or other branch of the Naval Department or any officer or Officers thereof;

Proviso.

3. And nothing in this Act shall extend or be construed to extend to vest in the said Commissioners any lands which before the said 30th day of August, 1851, had been granted by Her Majesty or Her Royal Predecessors to any other person or party, unless the same have been, subsequently to such grant, lawfully purchased, acquired or taken for the purposes of the said Naval Department of the public service, nor to impair, diminish or affect any right, title or claim vested in or possessed by any person or party on the said day in or upon any lands or real property whatsoever; nor to give the said Commissioners any greater, or better title to any lands or real property than was then vested in the Crown, or in some person or party in trust for the Crown, to the same.

On death or resignation of Lord High Admiral or Commissioners lands to vest in successors.

2. Upon the death, resignation, or removal of any Lord High Admiral, or Commissioners for executing the office of Lord High Admiral of the said United Kingdom, or any of them, all lands and other real property theretofore vested in or held by him or them under the provisions of this Act, shall become vested in and shall be held by his or their successors in office, according to the respective nature and quality of the said lands or other real property, and the several estates and interests in the same respectively, in trust as aforesaid.

Public lands may be granted to Commissioners.

3. All public lands necessary for the erection of any dock, dock yard, quay, slip, pier, wharf or arsenal, or for the free use of or approach to such work, or for preserving such work free from obstructions, may, on an Order of the Governor of this Province in Council, be freely granted by Letters Patent under the Great Seal of this Province to the said Commissioners in trust as aforesaid, and being so granted, may be disposed of by them in the same manner as other lands vested in them under this Act;—and all other public lands may be purchased by and granted to and vested in the said Commissioners in trust as aforesaid, on the payment of the price thereof by the said

Commissioners out of any funds provided for that purpose by the Imperial Parliament.

4. Any lease or conveyance, or any duly authorized contract for any lease or conveyance of any part of the lands or other real property vested in the said Commissioners, or of any estate or interest therein, made or entered into before the said 30th August, 1851, by any officer or person under whose control such lands or property were placed, or in whom the same were vested in trust for the Crown, shall be held good and valid by the said Commissioners, who shall be bound to ratify and confirm the same, and to execute all deeds and instruments necessary for that purpose, on the terms and conditions on which such lease or conveyance or contract was made.

Leases, &c.,
now existing,
confirmed.

5. The said Commissioners may sell, exchange, or in any manner dispose of, or let or demise any lands or other real property vested in them, under this Act, or any estate or interest therein so vested, or any of the said moveable or personal property hereby vested in them, either by public auction or by private contract, and may convey, surrender, assign or make over, grant, demise or deliver the same (as the case requires) to any party willing to take the same in exchange or otherwise; and they may also grant, dispose of, and do any other matter or thing in relation to any such lands or other real, moveable or personal property, as the said Commissioners deem beneficial for the public service and conducive to the better management and use of the property hereby vested in them, which might be done by any person having an estate or interest in the same of the same nature as that vested or held by the said Commissioners in trust as aforesaid.

Power to sell
or dispose of
property vested
by this Act.

6. When any moneys arise or are produced by the sale or exchange, demise or disposal of any such lands, or other real property as aforesaid, sold or exchanged, demised or disposed of under the provisions of this Act, such moneys shall be paid by the purchaser, or the person making such exchange, or to whom the same are demised or disposed of, to such person or officer as the said Commissioners appoint to receive such moneys, for such purposes as Her Majesty may direct; and the receipt of such person or officer as aforesaid (such receipt being endorsed or written upon or subjoined to the conveyance, surrender or assignment, lease or other instrument, or an authentic copy thereof) shall effectually discharge the purchaser or person by whom or on whose account such moneys are paid.

Moneys arising from sale,
&c., of property,
to be paid
as Commissioners
may direct.

SETTING OUT AND ACQUIRING LANDS REQUISITE FOR NAVAL DEFENCE.

7. The said Commissioners, and their Surveyors and workmen may,—at any time or times during the day, upon giving seven days' notice in writing for the first time, and afterwards and from time to time forty-eight hours' notice in writing, such respective notices to be given either to the owner or occupier

Commissioners
may enter
upon and survey
lands.

of the lands in question, or to be posted up in some conspicuous part of such lands,—enter into and upon any lands within this Province, for the purpose of surveying and valuing the same lands, without being deemed trespassers, and without being subject or liable to any fine, penalty or punishment on account of entering or continuing upon the said lands, or any part or parts thereof, for the purposes aforesaid.

Commissioners
may take con-
veyances and
make con-
tracts.

8. The said Commissioners may, from time to time, contract for the purchase of and take for and on behalf of Her Majesty, any lands or other real property, or any lease for or other interest in the same, which are in their judgment desirable to be purchased or taken for the service of the said Naval Department of Her Majesty's service, or the Defence of this Province, upon such terms as to the said Commissioners for the time being seem meet, and may enter into any contracts necessary for that purpose;—and all such lands or other real property, estate, or interest therein so to be purchased, shall be conveyed, granted or surrendered to the said Commissioners in trust as aforesaid.

Parties em-
powered to sell.

9. All persons, bodies politic or corporate, or ecclesiastical or civil, and all trustees and feoffees in trust for charitable and other purposes, and all executors, administrators and curators, not only for and on behalf of themselves, their successors, heirs, executors, administrators and curators respectively, but also for and on behalf of *cestui que* trusts, whether infants, *femes-covert*, idiots, lunatics, or persons not born or not ascertained, or out of this Province;

Tenants for
life.

2. And also all tenants for life, or for years absolute or determinable upon any life or lives, or in substitution (*grevés de substitution*) or otherwise;

Persons hav-
ing a qualified
estate, &c.

3. And all persons having any other description of any partial or qualified estate or interest, not only for and on behalf of themselves, their executors, administrators, curators and issue, but also for and on behalf of the persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, or where such person or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, are not ascertained, or are incapable of contracting or settling;

Guardians, &c.

4. And all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they are committees, and the executors, administrators, curators and issue of such wards, wives or persons respectively;

Married Wo-
men, &c.

5. And all *femes-covert* entitled in their own right to any such lands or to dower or other interest therein, on behalf not only of themselves, but also of their respective heirs, executors, administrators, curators and issue;

6. And also where such wards, wives, persons or *femes-covert* The same. respectively, are tenants for life or in tail, or for years absolute or determinable upon any life or lives, or otherwise, or have any other description of partial or qualified property, estate or interest, such guardians, husbands, committees, *femes-covert*, on behalf of the person or persons on behalf of whom such wards, wives, persons or *femes-covert* respectively, if of full age, unmarried, or of sound mind, might have contracted for the sale and have sold the same lands or any of them ;

7. And all and every other persons and person whomsoever, Other parties. seized or possessed of, or interested in all or any of the said lands, or entitled to any subsisting estates, leases, terms, shares and interests therein, which the said Commissioners think necessary for the public service ;

8. May contract and agree with the said Commissioners for Power to contract. the absolute sale to them of all or any of the said lands, and all estates and interests therein, may convey the same and the fee simple or absolute property thereof to the said Commissioners for such compensation, equivalent or satisfaction in money or lands, or any estate or interest in lands, or partly in money and partly in lands, or any estate or interest in lands, as to the contracting parties seems expedient and reasonable ;

9. And all contracts, agreements, acts, conveyances and deeds Contracts, &c. to be valid. made or executed by such contracting, conveying or selling persons as aforesaid, shall be as valid and effectual as if such persons were the absolute owners, and seized in fee simple of the lands so conveyed by them respectively, and such persons are hereby indemnified for or in respect of any such sale which they respectively make in pursuance of this Act.

10. The said Commissioners may give in exchange for any lands taken for the purposes of this Act, any lands in the same vicinity belonging to Her Majesty and vested in the Principal Secretary of State for the War Department, with the previous consent of the said Secretary. Commissioners may give lands in exchange, etc.

11. After the setting apart, grant, purchase, conveyance, demise or taking thereof, all lands and other real property, estate or interest therein at any time granted to or purchased or taken by the said Commissioners, or by any person or persons for them, for the service of the said Naval Department, or surrendered to or taken by Her Majesty, or purchased or taken by any person in trust for Her Majesty for such service under this Act, or of any other law, and all erections and buildings then or thereafter erected or built thereon, with the rights, members and appurtenances to the same respectively belonging, shall in like manner be, become and remain vested in the said Commissioners and their successors in the said office according to the nature and quality of the said lands and real Lands hereafter purchased to be vested in Commissioners.

property, or the several and respective estates and interest of and in the same respectively and in trust as aforesaid.

Compensation
for lands, how
fixed.

12. Every person hereinbefore capacitated to contract for and sell and convey any such lands as aforesaid, and any owner thereof, or of any share or interest therein, or charge thereon, may accept and receive such satisfaction and recompense for the value thereof, and such person or owner, and also any tenant or other occupier of any such land entitled to any compensation for tenant's fixtures, or for any goodwill or improvements, or for any injury or damage sustained on account of the execution of this Act, or in anywise relating thereto,—may accept and receive such sum of money in respect thereof as is agreed upon between them respectively and the said Commissioners, and in case the said Commissioners and the parties interested in such lands or fixtures, goodwill or improvements, or sustaining any such injury or damages as aforesaid cannot or do not agree as to the amount or value of such recompense, satisfaction or compensation, the same respectively shall be ascertained and settled by a Jury in manner hereinafter directed.

Disputes to be
settled by jury.

Before the end
of three
months after
notice by
Commission-
ers, all parties
interested
must send in
their claims.

13. Before the expiration of three months next after notice in writing from the said Commissioners for the time being, or their Secretary, or from their Agent duly authorized, of the intention to purchase, take or use any lands for the purposes of this Act, has been given to the persons hereby or otherwise capacitated to sell, or to their officer or agent, or to the owner of such lands, or in case he cannot be found or ascertained, left at his usual or last known place of abode, or with the tenant or occupier of the same lands, or affixed upon the same premises (and for the purpose of this Act any person hereby capacitated or otherwise enabled to sell shall be deemed the owner of such lands),—all owners and other persons seized, possessed of or interested in, or authorized by this Act or otherwise to accept and receive recompense or compensation for the value of the same land, or of any estate, share or interest therein, or claiming to be entitled to any compensation for any goodwill or improvements or for fixtures, or for injury or damage sustained on account of the execution of this Act, or in anywise relating thereto, shall deliver or cause to be delivered to the said Commissioners, in the manner hereinafter provided by the forty-eighth section of this Act, for the service of process and other proceedings upon them, a statement in writing of the particulars of the estate, share, interest, charge, fixtures, goodwill or improvements which they claim to be entitled to, or to compensation for, and of the injury and damage sustained by them and of the amount of money which they are willing to receive for the sale and in satisfaction of such their estate, share, interest, claim and demand as aforesaid ;

Certificate re-
quired before

2. But no such lands or other real property shall be so taken in absolute property without the consent of some party who

might under this Act convey the same, nor for any term of years or other term without the consent of some party who might have demised the same for such term, unless the necessity for taking the same be first certified under his hand and seal by the Commander in Chief or Senior Naval Officer of Her Majesty's Naval Forces on the Lakes of Canada, or unless an enemy has actually invaded this Province when such lands or real property are so taken.

lands are taken
from parties
whose estate is
not absolute.

14. In all cases where any lands or real property have been demised to or taken by the said Commissioners for any term of years, or for such period only as the exigencies of the public service require, the said Commissioners, notwithstanding anything in this Act, or in any other, may, at any time before they deliver up possession of the same, take down and remove all such buildings or other erections built or erected thereon for the public service, after such lands or real property was or were demised or taken by the said Commissioners, and may carry away, sell, or dispose of the materials thereof, making such compensation to the owner of such lands or real property, or the person authorised to act on his behalf, for the damage or injury done to such lands or real property by the erection of such buildings or otherwise, in consequence of the same having been occupied for the public service, as the said Commissioners think reasonable, or as is agreed upon in that behalf;

Commissioners
may remove
buildings
erected by
them on lands
demised to
them.

2. And if the owner or person authorized to act on his behalf is not willing to accept the compensation so offered, the said Commissioners may apply to and require any two Justices of the Peace for the district, county, city or place, to settle and ascertain the compensation which ought to be made for such damages or injury as aforesaid, and such Justices shall settle and ascertain the same accordingly, and shall grant a certificate thereof, and the amount so ascertained shall be forthwith paid by the said Commissioners to the person or party entitled to the same; But nothing in this Act contained shall extend to alter, prejudice or affect any agreement entered into by the said Commissioners with the owner of any land or real property, or any person authorised to act on his behalf, with regard to any such building or erections, but every such agreement shall remain valid and effectual according to the intent and purport thereof.

Compensation
for damages,
how deter-
mined.

15. If any person hereby or otherwise capacitated to sell any land so required by the said Commissioners, or interested in any share or estate therein, or charge thereon, or in any improvement, goodwill, fixtures or damages, neglects or refuses to treat, or does not agree in the premises, or by reason of absence or disability is prevented from treating with the said Commissioners for the sale and disposal of his estate and interest therein, or the estate and interest which he is hereby capacitated to sell, or for compensation for any such goodwill, fixtures, damages or improvements as aforesaid, or cannot be

Proceedings if
parties refuse
to agree upon
compensation.

found or known, or does not produce or evince a clear title to the premises he is in possession of, or to the interest he claims, to the satisfaction of the said Commissioners, or, by reason of any impediment or disability not provided for by this Act, is incapable of effectually making such agreement or sale thereof, or in any other case where agreement for compensation for any goodwill, improvements or fixtures, or for damages incurred in the execution of this Act cannot be made, or if the said Commissioners are not apprised to their entire satisfaction who is the person entitled or by this Act capacitated to sell,—then, on the requisition of the said Commissioners, the Governor of this Province, being satisfied of the facts aforesaid, may require any Sheriff of the district, county, city, town, or place where such lands or other real property lie, to cause the said Commissioners to be put in possession thereof, which such Sheriff shall accordingly do by issuing a warrant under his hand and seal, taking with him sufficient assistance ;

Sheriff to summon Jurors.

2. And the said Sheriff or his deputy shall summon twenty-four persons qualified to be Special Jurors, who stand first in order on his lists, to be and appear at the Court House of the county or district, on a day and at an hour to be named in such warrant, and not being less than ten days after the Sheriff has put the said Commissioners or such person or persons as they may appoint in manner in the forty-eighth section hereinafter mentioned, into possession as aforesaid, and of which day and hour he shall give notice in writing to the owner or proprietor, and to all persons whom he finds on the premises when he gives possession thereof ;—and at the time so appointed, a Jury shall be formed out of the Jurymen so summoned, allowing to the parties, if present, their lawful challenge to any Juror, but not to the array ;

Proceedings of the Jury.

3. And the said Jury being sworn before the Sheriff (or his deputy) authorized to issue the warrant of possession (and such Sheriff or his deputy may administer all necessary oaths, as well to the Jurors as to the witnesses to be produced by the parties), shall, on hearing the witnesses and the evidence adduced before them, inquire of and determine the price and compensation which shall be paid by the said Commissioners, either for the absolute purchase of the lands, or other real property in question, or for the possession or use thereof, as the case may be, and their verdict shall be certified by the Sheriff or his deputy as aforesaid, with the costs to be ascertained as herein-after mentioned.

If sufficient Jurors do not attend, proceedings may be adjourned.

16. In case a sufficient Jury to take the inquisition does not appear upon the return of the Sheriff's summons, the said Sheriff or Deputy Sheriff shall, from time to time, until a sufficient Jury has been obtained by the means aforesaid, adjourn the inquiry to any future day not exceeding fourteen days nor less than four days from the adjournment thereof,—and when a sufficient number of Jurors shall appear, he shall proceed to swear

and empanel twelve of them, who shall thereupon inquire as aforesaid.

17. No person shall be heard before the said Sheriff or Deputy Sheriff and Jury, touching the matter of the inquiry, unless such a statement as hereinbefore mentioned, of the particulars of every such claim, and how and in what manner the amount thereof is made out and computed, has been given to the Commissioners by or on behalf of such person, within three months after such notice in writing of its being the intention of the said Commissioners to purchase and take such lands, and all persons who do not give such statement within such period as last aforesaid, or do not appear to any inquisition, shall, as well as all other persons, be bound by such verdict and judgment as aforesaid.

No party to be heard unless he has sent in statement of claim.

18. Every person who, upon any examination taken by virtue of this Act, wilfully and corruptly gives false evidence either on oath or affirmation, before any Jury, or before any Justice of the Peace acting as such in the execution of this Act, shall be deemed to be guilty of perjury, and may be prosecuted for the same, and upon conviction thereof shall be subject to such and the same pains and penalties as persons guilty of wilful and corrupt perjury are or shall be by the laws in force subject or liable to.

Wilful false swearing, &c., to be perjury.

19. Every inquisition, verdict and judgment taken or given under this Act, shall be deposited with the Clerk of the Court within the jurisdiction of which the lands being the subject of dispute are situate, to be kept and preserved by him among the records of such Court, and shall be deemed records to all intents and purposes whatsoever, and the same, or copies thereof certified by such Clerk for the time being, shall be allowed to be good and conclusive evidence in all Courts and proceedings whatsoever; and all persons may inspect the same, paying for every such inspection the sum of twenty cents, and may take or make copies thereof or extracts therefrom, paying for every copy or extract made by such Clerk, with his certificate thereon, after the rate of ten cents for every one hundred words.

Inquisition to be deposited of record.

Copies, &c.

20. If any Jury, summoned pursuant to this Act, give in a verdict or assessment for more money as a recompense, compensation or satisfaction, for the rights, interest or property of the parties interested in any such lands, or for any such goodwill, improvements, fixtures, injury or damage as aforesaid, than has been agreed to be given or offered for the same in the aggregate by the said Commissioners, before the summoning and returning of such Jury,—or where by reason of absence from this Province or other incapacity or disability as aforesaid, or from any other cause, there is not or is not found any person legally capacitated to enter into any contract with the said Commissioners on behalf of Her Majesty,—then all the

In what cases the costs shall be borne by the Crown, or by the opposite party.

By the Crown.

reasonable costs, charges and expenses of causing and procuring such recompense, compensation or satisfaction to be assessed by a Jury, shall be settled by the Sheriff or his deputy before whom such claim has been tried or investigated, and shall be paid by the said Commissioners on behalf of Her Majesty :

By the opposite party.

2. But in every case in which any such Jury are of opinion that the statement delivered by the claimant of the manner in which any amount of moneys demanded as a recompense, compensation or satisfaction, has been computed and made up, did not give sufficient particulars to enable the said Commissioner to make a proper offer to such claimant, unless such claimant proves to the satisfaction of the Jury that he was not and could not be in possession of such additional information at the time the particulars referred to were furnished to the said Commissioners,—and in every case in which any such Jury give in a verdict or assessment for no more or for less money as such recompense, compensation or satisfaction as aforesaid, than has been agreed to or offered by the said Commissioners in the aggregate before the summoning and returning of the said Jury,—or in case no damages or less damages than those offered by the said Commissioners are given by the verdict, where the dispute is for damages only,—or where the causing or procuring such Jury to be summoned has arisen from a refusal to treat or agree with the said Commissioners by any person whomsoever, who is by the provisions of this Act or otherwise legally empowered to treat,—then, all such costs, charges and expenses to be settled by such Sheriff or his deputy in manner aforesaid, shall be paid to the said Commissioners on behalf of Her Majesty, by the said person so claiming, or entitled to such recompense, compensation or satisfaction, or refusing to treat and agree as before mentioned respectively ;

Costs payable to the Crown may be deducted from the sum awarded.

3. And all costs, charges and expenses hereby directed to be paid to the said Commissioners on behalf of Her Majesty, shall be deducted and retained by them out of the moneys adjudged and assessed to be paid by them, as so much money advanced to and for the use of the person entitled to such money so adjudged, and payment or tender of the remainder of such money, if any, shall be deemed and taken to be a payment or tender of the whole sum or sums so adjudged or assessed, or in case no money or no sufficient sum of money is awarded or assessed to be paid by the said Commissioners on behalf of Her Majesty, whereout such costs, charges and expenses can be deducted, then the same or the remainder thereof shall be recovered by execution against the person, lands and goods of such party, to be sued forth out of the Court into which such proceedings shall be returned, as in the case of other judgments in favour of Her Majesty.

Amount of costs to be allowed.

21. The costs to be allowed and settled by such Sheriff or Deputy Sheriff as aforesaid, shall be,—to himself, for executing the warrant of possession and summoning the Jury, four dollars,

and also such mileage for his necessary travel in causing such Jury to be summoned as are taxable in the Court of the highest jurisdiction of that section of this Province within which such lands lie, by any one of the Judges of such Court, or by the ordinary Taxing Officer, for the travel required in summoning Special Jurors for the trials of issues in such Courts;—also to himself for swearing such Jury, presiding at the inquiry and receiving the verdict, eight dollars, together with necessary travelling expenses,—to each Juror sworn, two dollars for each day on which the said Jurors shall be engaged on the said inquest or inquisition,—and a reasonable allowance to each material witness.

Payment of
Jurors.

22. In every case in which any person claims any satisfaction or compensation for or in respect of any unexpired term or interest which he claims to be possessed of or entitled to, in any lands intended to be taken or used by the authority of this Act, under or by virtue of any demise or lease, or agreement for a demise or lease or grant thereof, the said Commissioners may require such persons to produce or shew the document in respect of which such claim for satisfaction or compensation is made, or the best evidence thereof in his power;—and if such document or such best evidence thereof as aforesaid is not produced or shewn to the said Commissioners or their Agent, within twenty-one days after the demand made by the said Commissioners, or any person by them authorized, the person claiming such satisfaction or compensation shall be considered or treated as a tenant at will.

Commissioners
may require
proof in sup-
port of claims
of lessors.

PAYMENT OF PURCHASE MONEY, &c.

23. Every sum of money to be agreed upon or assessed as aforesaid, for the purchase of any lands required by the said Commissioners, or of any estate or interest therein, or for any recompense, compensation, or satisfaction as herein mentioned (except as herein otherwise provided), shall be paid by the said Commissioners, either to the person thereunto entitled, or into Her Majesty's Public Provincial Treasury as hereinafter mentioned, as the case may require, on a clear title to the lands, estate or interest in respect of which the same are payable, being adduced and shewn to the satisfaction of the said Commissioners, or of their Counsel.

Purchase mo-
ney exceeding
\$800, how to be
paid.

24. If any money is agreed or assessed to be paid for the purchase of any lands lying within Upper Canada, to be taken or used by the said Commissioners by virtue of their powers under this Act, or any estate or interest therein, or for any recompense, compensation or satisfaction under this Act, which any person, tenant for life, or in tail, feoffee in trust, executor, administrator, curator, husband, guardian, committee or other trustee, for or on behalf of any infant, lunatic, idiot, *feme-covert cestui que trust*, or any person or persons whose lands so taken are limited in strict or other settlement, or any person under

Purchase mo-
ney exceeding
\$800, how to
be dealt with
in cases of
parties unable
to convey, &c.

any other disability or incapacity shall be entitled unto, interested in, or hereby capacitated to sell,—or in case the lands or interest for the purchase whereof the same is agreed or assessed to be paid, are subject to, or charged or chargeable with any incumbrances, liabilities, claims or demands which cannot be or are not ascertained, got in, paid off or discharged,—then such money, if the sum is equal to or exceeds eight hundred dollars, shall not be paid into the hands of the person or party who makes and executes the sale, exchange or other conveyance, warranty, or quit-claim, but shall with all convenient speed be paid, together with the interest payable in respect of the same, if any, into Her Majesty's Provincial Treasury, to be placed to the credit of an account opened for that and similar purposes, in the Provincial Books of Account, under the name of Trust Deposit, and subject to the order, control and disposition of Her Majesty's Court of Chancery for Upper Canada, which said Court, on the application of any party making claim to such money, or any part thereof, by motion or petition, may, in a summary way of proceeding or otherwise, as to the said Court seems meet, order the same to be laid out and invested in the public funds of the Province, or may order distribution thereof, or payment of the dividends or interest thereof, according to the estate, title or interest of the party making claim, or may make such other order in the premises as to the said Court seems proper, upon every which order of such Court a Warrant shall issue for the payment of such money according to the same.

Cases in U.C. in which compensation is between \$100 and \$800.

25. And in any case where such moneys as are lastly hereinbefore mentioned are less than eight hundred dollars, and exceed one hundred dollars, the same shall not be paid into the hands of the person or party who makes and executes the sale, exchange or other conveyance, warranty or quit-claim, but shall, at the option of the party for the time being entitled to the rents and profits of the land or other real property purchased or taken, or of the guardian or committee of such party, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid, under the orders and directions of two Justices of the Court of Queen's Bench or Common Pleas, into the Public Provincial Treasury, as hereinafter mentioned, or otherwise, at the like option, shall be paid to three trustees nominated by the party making such option and approved by the said Commissioners (such nomination being signified in writing, under the hand of the nominating and approving parties), in order that such money may be invested in the public securities of the Province, and that such stock when purchased, and the dividends arising therefrom, may be applied in the manner herein directed, so far as the same may be applicable, without obtaining the order and direction of any Justices of either of the said Courts, and with the same effect as if such payment had been made under such orders and directions.

26. *Relates to Quebec only.*

27. Where any money so agreed or assessed to be paid as hereinbefore mentioned, for or in respect of lands, either in Upper or Lower Canada, does not exceed the sum of one hundred dollars, the same shall be paid to the respective parties who would for the time being have been entitled to the rents and profits of the lands taken or used for the purposes of this Act, or in respect of which such recompense, compensation or satisfaction shall be paid, for their own use and benefit; or in case of coverture, idiocy, lunacy or other incapacity, then such money shall be paid to their respective husbands, guardians, curators, committees or trustees, to and for the use and benefit of the parties respectively entitled thereto.

As to payment of compensation amounting to not more than \$100.

28. In case any party to whom any money is agreed or assessed to be paid for the purchase of any lands to be taken or used by virtue of the powers of this Act, or any estate or interest therein, or for recompense, compensation or satisfaction as aforesaid, refuses to accept the same, or cannot be found, or is absent from this Province, or refuses or neglects or is unable to make a title to and convey such lands, estate or interest, to the satisfaction of the said Commissioners, within twelve months from the period of the value of the lands or amount of recompense, compensation or satisfaction being agreed on or assessed as aforesaid;

Case of parties refusing to accept compensation, or absent from the Province, &c., provided for.

2. Or if any party entitled to contract or agree for the sale of such lands, estate or interest is not known, or is absent from this Province, or refuses to execute any proper contract or conveyance for the sale thereof respectively, within the said twelve months;

The same.

3. Then and in every such case, the said Commissioners may cause the money so agreed upon or assessed as aforesaid, to be paid into Her Majesty's Public Provincial Treasury, at the credit of the said Account of Trust Deposits, subject to the order, control and disposition of whichever of Her Majesty's said Courts shall, according to the fifty-fourth section of this Act, have jurisdiction in the premises; which said Court, on the affidavit of any party making claim to such money or to any part thereof, by motion or petition, may, in a summary way of proceeding or otherwise, as to the said Court seems meet, order the same to be laid out and invested in the public funds of the Province, or order disposition thereof or payment of the dividends or interest thereof, according to the estate, title or interest of the party making claim thereto, or may make such other order in the premises as to such Court seems proper;

The same.

4. And upon the application of any person or party having any interest in the said money, any two Justices of the said Court, upon reading the said petition, and any declaration, deed or instrument filed with the same, and receiving such further satisfaction as they deem necessary, may, in a summary way, make and pronounce such orders and directions for paying the

Distribution of the money on application of parties and order of Court.

said money, or any part of the same, or for placing such part thereof as is principal in the public securities of this Province, or real securities, and for the payment of the interest or dividends thereof, or any part thereof to the respective parties entitled to receive the same, or for laying out the principal or any part thereof in the purchase of lands or other real property, to be conveyed and settled to and for and upon the same uses, intents and purposes, as the lands or other real property for which such money is the compensation, stood settled at the time they were conveyed or taken as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said moneys or any part thereof, for the benefit of the party or parties entitled to or interested in the same respectively—or for appointing any person or persons to be a trustee or trustees for all or any of such purposes—or for requiring any security from any person to whom such moneys or any part thereof are paid or entrusted, as to the said Justices appear just and right:—And all such orders and directions shall be obeyed by the proper officer of the Provincial Treasury, and the receipt of the person or party to whom he pays the said money or any part thereof, in obedience to such orders and direction, shall be the valid discharge of such officer and of the said Commissioners for the moneys paid.

Upon payment or tender of compensation, Commissioners may enter upon lands which shall be vested in them in trust for Her Majesty.

29. Upon payment or tender of the sums of money agreed upon between the parties, or awarded by a jury, for the purchase of any lands, or whenever any of the respective cases happen wherein such money is herein authorized to be paid in manner above mentioned by the said Commissioners, the said Commissioners may immediately enter upon such lands, and thereupon such lands, and the fee simple and inheritance thereof, and all the estate, use, trust and interest of all parties therein, shall thenceforth be vested in and become the property of the said Commissioners in trust for Her Majesty, for the purposes of this Act;

As to money entry on lands in certain cases.

2. And when any money has been paid into the Public Provincial Treasury as aforesaid, the said Commissioners shall not be bound to see to the application thereof, and such payment or tender, or such deposit in the Public Provincial Treasury, shall in all respects, and to all intents and purposes, operate in the same manner as if a conveyance under the provisions of this Act had been made of the lands in question to the said Commissioners;

Warrant of entry on lands in certain cases.

3. And in all cases whatsoever in which the said Commissioners have a right of entry under the provisions of this Act (except a right of entry for the purpose only of making such survey and valuation as aforesaid), and delivery of possession is refused or withheld, any one of the Judges of either of the Courts aforesaid may issue his Precept or Warrant to the Sheriff of the County or District in which such land is situate, to enter upon the lands the possession whereof is refused or withheld,

and to take possession thereof, and to deliver the possession of the same to such person as shall in such Precept or Warrant be nominated to receive the same, being a person appointed on that behalf by the said Commissioners; and the said Sheriff shall take possession and deliver the same accordingly.

30. When any question arises touching the title of any person to any money paid into the Public Provincial Treasury by the said Commissioners under this Act, as recompense, compensation or satisfaction for any damage or injury to any lands purchased or used in pursuance of this Act, or to any public securities of this Province to be purchased with any such money as herein mentioned, or to the interest or dividends of such public securities, or to any part of such money, public securities or dividends, or interest respectively,—the person who was in possession of such lands or in receipt of the rents and profits thereof, at the time of such purchase, or at the time when such damage or injury accrued, and all persons claiming under such person or under or consistently with the possession of him, shall be deemed to have been lawfully entitled to such lands according to such possession, and the said purchase money, awarded or tendered, shall be paid and disposed of accordingly, unless it be made to appear that such possession was a wrongful possession, and that some and what other person was lawfully entitled to such, or to some and what part of such lands, or to some and what estate or interest therein or charge thereon.

Party in possession to be deemed entitled to the compensation until such possession be proved to be wrongful

31. When the purchase money for any lands to be taken or used for the purposes of this Act, or the money paid for any such recompense, compensation or satisfaction as aforesaid, is paid into the Public Provincial Treasury as aforesaid, under this Act, the Court having jurisdiction in the premises (if it thinks fit) may order the costs, charges and expenses attending any such motion, petition or application as aforesaid, and the proceedings to be had thereon, or so much of such costs, charges and expenses as the said Court deems reasonable under the circumstances of the case, together with the costs and charges of obtaining such order, to be paid by the said Commissioners, who shall from time to time pay such sums of money, in such manner and for such purposes as the said Court directs.

Where money paid into Provincial Treasury, Court may order as to payment of costs.

32. Where the money awarded or tendered to be paid for any land used for the purposes of this Act, is paid into the Public Provincial Treasury by the Commissioners in manner hereinbefore directed, in consequence of a good title not having been made to such lands to the satisfaction of the said Commissioners, by reason of the same lands respectively being subject, either alone or together with other lands not required for the purposes of this Act, to a rent payable to some person unable or unwilling to release therefrom the lands required to be used for the purposes of this Act,—then and in every or any such case, the lands for the value of which the

Deposit of money shall release lands from rents charged upon them.

money to be paid into the said Provincial Treasury, together with the money (if any) to be paid for costs and charges under this Act, is agreed or assessed to be paid, shall be and are hereby released and for ever discharged from such rent, and all claims and demands in respect thereof, and all powers and remedies for recovering the same, and the money to be paid into the Provincial Treasury shall be laid out and invested under the directions and with the approbation of the Court having jurisdiction in the premises, to be signified by an order made upon motion or petition to be preferred or made in a summary way by the person who would have been entitled to the rents and profits of the land for the value of which such moneys respectively have been paid as aforesaid, in the purchase of other lands, which shall be conveyed and settled, subject either alone or together with such other lands (if any), as the case may be, to such rent to the like uses, intents, trusts and purposes, and in the same manner as the said lands so to be used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance and settlement are existing, undetermined and capable of taking effect;

2. And in the meantime and until such purchase is made the said money shall, by order of the said Court, upon application thereto as aforesaid, be invested in the purchase of public securities in this Province, and in the meantime and until such public securities are ordered by the said Court to be sold for the purposes aforesaid, the interest, dividends and annual produce thereof, shall from time to time be paid, by order of the said Court, to the person who would for the time being have been entitled to the rents and profits of the said lands hereby authorized to be purchased in case such purchase and settlement were made;

3. And the lands so to be purchased and settled shall be either alone, or, as the case may be, together with the said other lands not required for the purposes of this Act, and already subject to the same rent, and shall in the conveyance and settlement thereof, be declared to be subject thereunto in the same manner, to all intents and purposes, as the lands taken or to be taken for the purposes of this Act as aforesaid were subject thereto, and the person to whom such rent is payable shall have such and the same powers and remedies for enforcing the payment thereof or of any part thereof, out of or upon the lands to be comprised in such conveyance and settlement and declared to be subject thereto, as he would have been entitled to if such rent had originally been reserved out of or charged upon the same, either alone, or, as the case may be, together with such other lands not required as aforesaid, instead of the lands to be taken for the purposes of this Act, or the same lands and such otherlands (if any), as aforesaid, in the same manner to all intents and purposes as such rent was reserved out of or charged upon the lands so taken, either alone or together with the other lands subject thereto, as the case may be,—and in the meantime and un-

til such purchase shall be made, it shall be lawful for the said Court, upon application thereto as aforesaid, to order any part of the interest, dividends and annual produce of the public securities in which the said last mentioned money is invested, to be paid from time to time to the person for the time being entitled to the said rent in discharge thereof or part thereof, as the case may be.

23. Where any lands purchased or wanted or intended to be purchased by the said Commissioners on behalf of Her Majesty, are charged or subject, solely or jointly with other lands not intended or wanted to be purchased, to or with any rent service, rent charge or chief rent or other rent, payment or incumbrance, the said Commissioners, may (if they think proper) agree for the release of the lands so purchased or wanted, or intended to be purchased from such rent, payment or incumbrance, for such gross sum as may be agreed upon between the said Commissioners and the party who, under the provisions of this Act, agrees to sell or apportion the same, and which agreement may be entered into by all persons absolutely entitled, and by all persons by this Act authorized, capacitated and empowered to sell or convey lands,—and the moneys to be paid shall be paid and applied in manner hereinbefore directed with regard to the purchase money in the sale of lands :

When lands purchased are liable to a rent, &c., jointly with other lands, how such rent &c., may be released or apportioned.

2. And in case any difference shall arise respecting the value of such rent, payment or incumbrance, or respecting the apportionment thereof, the same shall be determined by a Jury, if required, in like manner as the price of land is by this Act directed to be settled in case of dispute as to the value thereof, and which Jury shall assess and determine the value of the rent, payment or incumbrance affecting the lands purchased or intended to be purchased for the purposes of this Act, and shall also, where necessary or convenient, apportion the rent, payment or incumbrance affecting the lands jointly subject to such rent, payment or incumbrance as hereinbefore mentioned, according to the respective values of the lands purchased or intended to be purchased, and of the lands not purchased or intended to be purchased by the said Commissioners ;—And all contracts made by and between the said Commissioners on behalf of Her Majesty, and any such party as aforesaid, respecting such release or apportionment, shall be valid and effectual in the law, and all contracts or assurances made with or to the said Commissioners respecting such release, shall extinguish the whole or a proportionate part of such rent, payment or incumbrance, as the case may be ;

In case of difference as to the value of rent, &c.

3. But where the party entitled to such rent, payment or incumbrance considers the remaining part of the lands so jointly subject a sufficient security for such rent, payment or incumbrance, and is willing to release the lands so purchased therefrom, then and in such case the person absolutely

The same.

entitled to the said rent, payment or incumbrance, or by this Act authorized, capacitated or empowered, to apportion such rent, payment or incumbrance, or to release the lands so purchased or intended to be purchased therefrom, may, with the consent of the said Commissioners, and also of the owner of the lands so jointly subject as aforesaid (although such owner only has a limited or partial interest in such last mentioned lands), release the lands so purchased or intended to be purchased as aforesaid from the rent, payment or incumbrance affecting the same as aforesaid, jointly with other lands, on condition or in consideration of such other lands continuing or remaining solely and exclusively subject to such rent, payment or incumbrance ;

When part of
the lands are
released.

4. And when any of the lands purchased by the said Commissioners are released from a part only of any rent, payment or incumbrance affecting the same, jointly with other lands, such last mentioned lands shall be charged only with the remainder of such rent, payment or incumbrance, and such apportionment shall not prejudice the title to the remaining part of such rent, payment or incumbrance, or the remedies for such remainder, but the same shall at all times thereafter remain as effectual as if the lands not so purchased had been originally charged with that amount only ;

When a part of
any rent, &c.,
is released, &c.

5. And when a part of any rent, payment or incumbrance is released, the said Commissioners may, on tender for that purpose by any deed or instrument creating or transferring the remainder of such rent, payment or incumbrance, cause to be endorsed a memorandum on such deed or instrument, declaring what part of the lands subject to such rent, payment or incumbrance, have been purchased or intended to be purchased by virtue of this Act, and what proportion of the said rent, payment or incumbrance has been released, and also declaring the amount of the rent, payment or incumbrance which shall continue payable, and such memorandum shall be evidence in all Courts of the facts therein stated, but shall not exclude any other evidence of the same facts.

Where a part
only of leased
lands are taken
rent may be
apportioned.

34. In all cases in which a part only of any lands comprised in any agreement for a lease, or any lease, and subject to any rent, are required for the purposes of this Act, the rent payable in respect of any such lands shall (if the said Commissioners think fit) be apportioned between so much of the same lands as shall be acquired for the purposes of this Act, and the residue of such lands, and such apportionment shall, in case the same is not settled by agreement between the parties, be ascertained and settled by the verdict of a jury, if required, in like manner as the price of any lands to be taken in pursuance of this Act is directed to be settled in case of dispute as to the value thereof ;

2. And in case such apportionment is settled by agreement between the parties, such agreement shall be made with, and shall not be valid without the consent and approbation of the

lessor of such lands;—And any person hereby or otherwise capacitated or authorized to sell lands, and who is a lessor, shall be capacitated to assent to such apportionment, and to bind the property in respect of such apportionment ;

3. After such apportionment, the tenant or lessee of such lands comprised in such lease or agreement for lease shall, as to all future accruing rent, be liable only to so much of the rent reserved in such lease or agreement for lease as is apportioned in respect of the lands not required for the purposes of this Act, and the lessor of the same lands shall have all such and the same remedies for recovering and compelling payment of the rent so apportioned in respect of the lands not required for the purposes of this Act, as before such apportionment he had or was entitled to in respect of the rents reserved, or agreed to be reserved in such lease or agreement for lease as aforesaid ; and such apportionment shall not prejudice or affect any of the covenants, conditions or agreements in such lease or agreement for lease contained.

35. In all cases in which any lands lying within Upper Canada, subject to any mortgage, are required for the purposes of this Act, and in which such lands are of less value than the principal moneys, interest and costs secured thereon, or in which a part only of the lands subject to any mortgage is required for the purposes of this Act, and such part is of less value than the principal money, interest and costs secured on such lands by mortgage, and the mortgagee thereof does not consider the remaining part of such lands to be a sufficient security for the money charged thereon, or is not willing to release the part required for the purposes of this Act from the principal or mortgage money, and all interest due or to become due thereon, and all costs;—the value of such lands, or, as the case may be, of such part of the said lands as is required for the purposes aforesaid, and also the compensation (if any) for any damages done in respect of the parts so required, shall be settled and agreed upon by and between the mortgagee and the trustee or other person entitled to the equity of redemption of such lands, whether absolutely or for such estate as might capacitate him, to convey for the purposes of this Act, on the one part, and the said Commissioners on behalf of Her Majesty on the other part ; and in case of any difference between them, then such value and compensation shall be determined by the verdict of a jury, in the same manner as in other cases of difference under this Act ;

Provision in case lands in U. C. taken be of less value than mortgage secured upon them, or part only of mortgaged lands are taken.

2. And the amount of such value and compensation to be so agreed or determined as aforesaid shall be paid to such mortgagee or mortgagees in satisfaction of his claim, so far as the same will extend ; and such mortgagee shall thereupon convey, assign, and transfer all his interest in such mortgaged lands, the value whereof or compensation for which has been so agreed upon or determined as aforesaid ; or in case of his neglecting or refusing

to convey or assign or transfer as hereinbefore directed, then the amount of such value and compensation shall be paid into the Provincial Treasury, to the credit of such mortgagee, and such payment to the mortgagee or mortgagees, or into the Public Provincial Treasury, shall be accepted in satisfaction of the claim of such mortgagee, so far as the same will extend, and also in full discharge and exoneration of such part of the mortgaged lands as are taken or used, from all principal and interest and other money due or secured thereon,—and thereupon such mortgaged lands so taken or used shall become absolutely vested in the said Commissioners, who shall be deemed to be in the actual possession thereof, to all intents and purposes whatsoever;

Powers of mortgagees, etc.

3. Nevertheless, all mortgagees shall have the same powers and remedies for recovering or compelling payment of their mortgage money, or the residue thereof, (as the case may be,) or the interest thereof respectively, upon and out of the residue of the mortgaged lands not required for the purposes aforesaid, as they would have had or been entitled to for the recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage;

In case part only of the lands are required, etc.

4. And when a part only of the lands subject to any mortgage are required or have been taken for the purposes of this Act as aforesaid, and the value of the lands so taken has, on the assignment or conveyance thereof to the said Commissioners, been paid to the mortgagee thereof, in part satisfaction of his mortgage debt, a memorandum of what has been so paid shall be endorsed on the deed creating such mortgage at the time of executing such assignment or conveyance to the said Commissioners, and shall be signed by such mortgagee, and a copy of such memorandum shall at the same time, if required, be furnished by the said Commissioners to the person so entitled as aforesaid to the equity of redemption of the lands comprised in such mortgage deed.

Form of conveyance under this Act.

36. Conveyances of lands purchased in pursuance of this Act may be made according to the following form, or as near thereto as the number of the parties and the circumstances of the case will admit, that is to say :

“I, _____, of _____, in consideration of the sum
“of _____ to me, (or as the case may be,) into the Bank
“of _____ paid by the Commissioners for executing the Office
“of Lord High Admiral of the United Kingdom of Great
“Britain and Ireland, do hereby convey to the said Commis-
“sioners all (*describing the lands to be conveyed*), together with
“all ways, rights and appurtenances thereunto belonging, and
“all such estate, right, title and interest in and to the same
“and every part thereof, as I am or shall become seized or
“possessed of, or am by the *Act respecting Lands and rea-*
“*property held by the Imperial Authorities for the naval de-*

“*fence of this Province*, capacitated or empowered to convey :
 “to hold the said lands to the said Commissioners in trust and
 “according to the intent and meaning of the said Act. In
 “witness whereof, I have hereunto set my hand and seal the
 “ day of in the year of Our Lord .”

2. And all such and other conveyances to the said Commissioners shall be valid and effectual in the law to all intents and purposes, and shall operate to merge all terms of years, attendant by express declaration or by construction of law, on the estate or interest so thereby conveyed, and to bar and destroy all estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts and interests whatsoever, of and in the lands in such conveyances respectively comprised; but although any such terms of years shall be merged as aforesaid, yet they shall in equity respectively afford the same and the like protection and priority against mesne incumbrances, as if such terms of years were assigned and kept on foot, in trust for the said Commissioners, and to attend the freehold, reversion or inheritance of the lands therein comprised.

Effect of such conveyance.

POWERS OF COMMISSIONERS FOR CERTAIN PURPOSES.

37. The said Commissioners may, without any writ being issued, or other legal proceeding being adopted, stop up and divert any landing place, turnpike road, highway, street, carriage-way, horse-way, foot-way and cause-way, on, near or adjoining to any land required for the purposes of this Act, they, at the cost of Her Majesty, previously making and opening another good and sufficient landing place, road or way, with requisite boundary fences, in lieu of that so diverted or stopped up, and at such convenient distance therefrom as to the said Commissioners seems proper and necessary; and upon such substituted landing place, road or way being completed, the landing place, road or way diverted or stopped up, and the soil thereof, shall vest absolutely in the said Commissioners in trust for Her Majesty, for the public service; and the new landing place, road or way, and the soil thereof, shall vest in the same trustees, or other persons, as the landing place, road or way so *directed** or stopped up was vested in at the time of the diversion or stoppage thereof by the said Commissioners;

Commissioners may stop up or divert any road, &c., on providing another equally good.

2. But whenever it is deemed necessary to stop up or divert any turnpike or other road, landing place, highway, street, carriage or other way, under or through which any public drain or sewer, or main pipe for the conveyance of water passes or is laid, the said Commissioners, previous to any such drain, sewer or pipe being disturbed or injured, shall, at the cost of Her Majesty, cause another good and sufficient drain or sewer to be made, and other and sufficient pipe or pipes, for the conveyance of water, to be laid down, through or under the road or way intended to be substituted.

Proceedings when it is deemed necessary to stop up, &c., any road, &c.

* *This is probably a mistake for “diverted.”*

How the substituted road shall be kept in repair.

38. Every road or way substituted by the said Commissioners for any road or way stopped up or diverted by them, shall be kept in repair by the said Commissioners, at the cost of Her Majesty, for the space of twelve months from the time of the opening thereof, and at the expiration of such twelve months, the substituted road or way shall be repaired, for ever thereafter, by and at the cost of the trustees or other persons who would or ought to have kept in repair the road or way so diverted or stopped up.

Canals or rail-roads may be made through reserves by permission of Governor and Commissioner.

39. But nothing herein contained shall be construed to restrain or prevent the Governor of this Province, with the consent of the Lord High Admiral or Commissioners of the Admiralty for the time being, but not otherwise, from authorizing the construction of any canal or railway upon or over any lands reserved or set apart as aforesaid by the Government of either of the late Provinces as aforesaid, in Council, for Military or Naval purposes, and which by this Act are vested in the said Commissioners.

Tenants by the year or at will to quit at once.

40. Every tenant or lessee for a year, or from year to year, or any other person or persons in possession of any lands acquired or purchased by virtue of this Act, who has no greater interest in such lands than as lessee for a year, or from year to year thereof, shall, at the expiration of any notice, not being less than three months,—such notice being in writing, signed by the said Commissioners, or by any person under their authority, and given to him, her or them, or left at the lands which are the subject of such notice, and whether such notice be given with reference to the time or times of such tenants holding or not,—quit and relinquish the said lands unto the said Commissioners, or unto any person by them authorized to receive possession thereof;

Compensation and satisfaction to be given to such tenants.

2. And in case any such tenant or lessee is compelled to quit before the expiration of his term or interest in any such lands, then and in such case the said Commissioners shall give satisfaction and compensation for the loss or damage which he sustains thereby; and in case of any difference as to the amount of such satisfaction or compensation, the same shall or may be settled and ascertained by a Jury in the same manner as the sums of money to be paid for the purchase of any lands (and liable to the same conditions as to costs) are hereinbefore directed to be ascertained; or if the said Commissioners and the other parties in difference so agree, the same may be settled by a reference to the award of an arbitrator or arbitrators, to be agreed on or chosen by the parties;

Parties compensated to quit the land.

3. And every person so in the possession of any lands or any part of the same, required or purchased in pursuance of this Act, shall, upon tender or payment as aforesaid of such recompense or satisfaction for any of his term, estate or interest in the premises as is mutually agreed upon, or settled and awarded by

any arbitrator, referee or umpire, or by verdict or inquisition of a Jury in manner aforesaid, quit and relinquish the said lands so in their respective possessions, unto the said Commissioners, or to any person by them authorized to receive possession of the same, and all the leases and agreements whatsoever, by virtue whereof any such person holds the said lands, shall, at the expiration of such notice, or upon such payment or tender as aforesaid in case the party is entitled to compensation, be absolutely void as against Her Majesty and the said Commissioners ;

4. And if any such tenant or lessee or other person refuses or neglects to deliver up the lands in his possession, at the expiration of such notice, or upon such payment or tender as aforesaid, any Justice of the Peace may issue his Precept or Warrant to a Constable to enter upon the said lands and to take possession thereof, and to deliver the possession thereof to such person as shall in such Precept or Warrant be nominated to receive the same, being a person appointed in that behalf by the said Commissioners, and the Constable is hereby authorized and required to cause such possession to be taken and delivered accordingly.

Proceedings if any such party refuses to quit.

41. All persons hereby or otherwise capacitated to sell, and who do not agree with the said Commissioners as to the price to be paid or the lands to be given in exchange for any lands required to be purchased by virtue of this Act, or for any estate or interest therein, or charge or incumbrance thereon, or as to the amount to be paid by way of compensation for any damage whatsoever, or with reference to the value of any goodwill, improvements or fixtures, may, if they think fit, agree with the said Commissioners to refer it to any person or persons to assess the amount to be paid, and every such agreement and the award of such person or persons shall be in all respects binding and effectual.

Amount of claims may be referred or arbitration.

42. No action, suit or other proceeding shall be commenced or brought against any person for anything done in execution or in pursuance of this Act until after twenty-eight days' notice thereof has been given to such person, clearly and explicitly specifying the cause of action, suit or proceeding, and the name and place of abode of the person commencing the same, and of his attorney or agent (if any), nor after a sufficient compensation or tender thereof made to the party aggrieved, nor after three months next after the act committed ;

Notice of action to be given for things done under this Act.

2. And the defendant in every such action or suit may, at his election, plead either specially or the general issue, and give this Act or the special matter in evidence at any trial to be had thereupon, and that the same was done in the execution and in pursuance of and by the authority of this Act ; and if the same appears to be so done, or if such action or suit is brought before twenty-eight days' notice thereof has been

Defendant may plead general issue, etc.

given as aforesaid, or after sufficient compensation made or tendered as aforesaid, or after the time limited for bringing the same as aforesaid, the Jury shall find (or the Court shall give judgment if the case be tried in Lower Canada, and without the intervention of a Jury) for the defendant, and upon such verdict or judgment; or if the plaintiff is non-suited or discontinues his action or suit after the defendant has appeared, or if upon demurrer, judgment is given against the plaintiff, then the defendant shall be entitled to and recover his full costs, and shall have such remedy for recovering the same as any defendant hath for his costs in any other cases by law.

Appeal to Superior Court in certain cases.

43. If the said Commissioners or any person or party interested in the lands and other real property, so marked out and taken as aforesaid, is dissatisfied with the verdict of such Jury, such Commissioners or person, at the term commencing next after the rendering of such verdict, if the owner or some person hereby empowered to convey such lands and other real property has had due notice of the taking thereof, or within one year if they have been taken as belonging to some party unknown, or as being absent from the Province and having left no known person therein who might convey or demise the same on behalf of such party, may apply to the Court having jurisdiction in the premises, according to the provisions of the fifty-fourth section of this Act, and may suggest that they have reason to be dissatisfied with such verdict, and may give notice of such application to the opposite party or to such persons as are hereinafter mentioned, and may give security to the satisfaction of the Court for the payment of costs;—and thereupon the proceedings which have been had in the matter, and the verdict of the jury, shall be returned into Court, and if it appears to the Court that the application ought to be granted, then the Court shall direct the compensation to be paid to be assessed and ascertained by a jury, according to law and the course and practice of the Court, and such damages may be inquired of and ascertained by a jury, and the verdict of such jury shall be final and conclusive, unless a new assessment of damages is for sufficient reason granted by the Court according to the course and practice thereof and to law.

As to enrolment of deeds to Commissioners.

44. No enrolment of any deed conveying any lands or real property, or any estate therein to the said Commissioners, shall be necessary to vest the same in them in trust as aforesaid, but the said Commissioners may at their option cause any deed or instrument, not being a Notarial instrument, relating to any lands or real property vested in them, to be enrolled, upon payment of the usual fees, in the office of the Provincial Registrar, without its being necessary for them to produce to that Officer any proof of the execution of such deed or instrument; and a copy of such enrolment, signed by the Provincial Registrar, and proved upon oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed or instrument in any Court of Law and

Equity, and on every occasion shall have the same force and effect to all intents and purposes as such deed, instrument or document would have if the same were respectively produced and shewn forth.

CHANGING THE TENURE OF LANDS.

45. *Relates to Quebec only.*

BRINGING SUITS, EXECUTING DEEDS, &C.

46. The said Commissioners may bring, prosecute and maintain any action or actions of ejectment, or other actions and proceedings, either at law or equity, for recovering possession of any lands or other real property vested in them, or to which they become entitled under the provisions of this Act, or otherwise howsoever, and may distrain and sue for any arrears or any other dues of any kind which have become due, for or in respect thereof, under any parol or other demise, grant or concession from the said Commissioners, or from Her Majesty, or any person or officer acting for or on behalf of Her Majesty, or from any party holding such lands or real property in trust for Her Majesty,—and may also bring, prosecute and maintain any other action, suit or proceeding in law or in equity, in respect of any such lands or other real property, or of any right or interest therein, or of any trespass or encroachment committed thereon, or damage or injury done thereto,—and also upon all covenants and contracts whatsoever, now or hereafter to be made by, to or with the said Commissioners, and in any way relating to such lands and real property;

Commissioners empowered to sue and be sued in matters relative to property held by them.

2. And in every such suit, action or other proceeding, the said Commissioners shall be called “The Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland,” without naming them or any of them, and the said Commissioners may by the said name be sued and impleaded and prosecuted, and may answer and defend any suit, action, prosecution or proceeding to be brought or instituted against them in any Court of Law or Equity in this Province, by any person or party whomsoever;—and no suit, action or proceeding to which the said Commissioners are a party, shall abate or be discontinued or interrupted by the death, resignation, or removal of such Commissioners, or any of them.

Style by which the Commissioners may be impleaded, &c.

47. And, when and as often as there occurs a transfer of the powers by this Act conferred from a Lord High Admiral to Commissioners for executing the Office of Lord High Admiral, or from such Commissioners to a Lord High Admiral, by its being the pleasure of Her Majesty to appoint a Lord High Admiral, or Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, no such proceeding, either at law or in equity, or before any Justice of the Peace, or

No action to abate by reason of appointment of Lord High Admiral or Commissioners.

other tribunal or judicial, or other Officer whatsoever or whomsoever, pending by or against the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, for the time being, shall abate or be discontinued, or otherwise affected by such transfer, but the fact of Her Majesty having been pleased to make such new appointment since the last proceeding therein, having been suggested of record or otherwise, as the Court, Justice or other officer, before whom the same is pending, may direct, the proceedings shall thereupon continue to be conducted in the name of the Lord High Admiral, or of the Commissioners for executing the Office of Lord High Admiral, as the case may be, and judgment given, and execution awarded with all the consequences, as if such proceedings had been originally instituted in the name of the Lord High Admiral or the Commissioners, as aforesaid; and any such suggestions may be entered *nunc pro tunc* whenever such Court, Justice or other Officer, before whom such proceeding was pending at the time, thinks fit to order the same so to be entered.

How service
may be made
upon the said
Commission-
ers.

48. All such suits, actions or proceedings to be brought or instituted against the said Commissioners, may be brought or instituted in the Court within the local jurisdiction whereof the lands or other real property to which such suits, actions or proceedings may respectively relate are situate, or the cause of action has arisen;—and service of any writ, summons, process, order, notice or other document required to be made for that purpose, or in the progress of any such action, suit or proceeding to which the said Commissioners are parties, shall be deemed to be validly made upon the said Commissioners, by leaving a true copy thereof at the office or place of residence of the officer or person who has been appointed by the said Lord High Admiral, or Commissioners for executing the Office of Lord High Admiral as aforesaid for the time being, to execute the powers of this Act conferred under the fifty-sixth section thereof, within the local jurisdiction of such Court; or if there are more than one such officer or person, then at the office or place of residence of any one of the officers or persons so appointed as aforesaid within such local jurisdiction of the said Court; and if there is no such officer or person within the jurisdiction of the said Court, then on the senior Naval Officer in command within this Province; or if there is no such officer or person so appointed then resident within this Province and the said senior Naval Officer is out of the jurisdiction of the said Court for the time being, then by transmitting a true copy of such summons, process, order, notice or other document, through the Post Office, directed to Her Majesty's Attorney General for that section of this Province in which such suit, action or proceeding is brought or pending.

Commission-
ers may
recover costs.

49. In all suits, actions and other proceedings at law or in equity, in which a verdict passes, or judgment or decision is given for or in favor of the said Commissioners, the said Com-

missioners shall, in addition to all damages to which they are entitled, have judgment for their full costs and charges in such suits, actions or proceedings, to be assessed and taxed against the defendant or other opposing party, and to be recovered and levied in the same manner and form as they might have been assessed, taxed, recovered and levied in favour of any private party.

50. Nothing herein contained shall be taken to defeat or abridge, in any such action or other proceeding, the several rights, privileges and prerogatives of Her Majesty, but in all such suits, actions and other proceedings brought or instituted in the name of the said Commissioners, and in all matters relating thereto, the said Commissioners may claim, exercise and enjoy all the same rights, privileges and prerogatives which have been heretofore claimed, exercised and enjoyed in any suits, actions or proceedings whatsoever in any Court of Law or of Equity, by Her Majesty or Her Royal Predecessors, in the same manner as if the subject matter of such suits, actions or other proceedings were vested in Her Majesty, and as if Her Majesty were actually made a party to the same: And Her Majesty may, if so advised, proceed by information in the proper Court of Queen's Bench, or Superior Court, or by any other Crown Process, legal or equitable, in any case in which such suits, actions or other proceedings might otherwise have been instituted by the said Commissioners.

Saving of Her Majesty's rights.

51. In all contracts of every description, and in all conveyances, surrenders, leases, and in other deeds, and in other instruments whatsoever relating to the public service, made or entered into by, to or with the said Commissioners, or whereunto they shall be a party, it shall be sufficient to call or describe them by the style and title of the "Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," without naming them or any of them, and all such contracts, conveyances, surrenders, leases and other deeds and instruments, wherein the said Commissioners are so called and described as aforesaid, shall be as valid and effectual and shall have the same force and effect to all intents and purposes whatsoever, as if the said Commissioners had been particularly named and described therein, and with regard to their successors in office, as if such successors had made and entered into the same, and had been named and described therein.

Name and style to be adopted by Commissioners in deeds, &c.

52. The said Commissioners may give any notice, and make any entry, claim or demand which it shall be requisite or expedient to give or make on behalf of Her Majesty, with a view to compel any tenant, lessee, or occupier of any lands or other real property vested in the said Commissioners under the provisions of this Act, to quit or deliver up possession thereof, or to compel the performance of any covenant, contract or engagement relating thereto, or to recover possession on non-performance of any covenant, contract or agreement, or to compel the

Power to Commissioners to give notices, &c.

payment of any sum of money which ought to be paid in respect thereof, and they may give any other notice and make any claim or demand, or do any other act or thing which it shall be requisite to make, give or do, on behalf of Her Majesty, touching or concerning any such lands or other real property, or any right, title or interest therein; and the same being so made, given or done, shall be valid and effectual to all intents and purposes whatsoever.

Commissioners
not personally
liable.

53. Nothing contained in this Act, or in any covenant, contract, lease or other instrument hereby authorized to be entered into, made, taken or executed by the said Commissioners, or any of them, or by any person or officer acting under them, shall extend to charge the persons of such Commissioners, person or officer executing such covenant, contract, lease or other instrument, or their heirs, executors, administrators, curators or other legal representatives, or their or any of their own proper lands or tenements, goods or chattels, with the performance of any of the covenants, conditions and agreements in such covenants, contract or lease, or other instrument entered into on the part of such Commissioners for the public service, and by their name of office as aforesaid; nor shall the said Commissioners, or any of them, be personally liable; nor shall any property of such Commissioners, or any of them, be liable to any legal process or execution in such suits, actions, or other proceedings as aforesaid.

What Courts
shall have ju-
risdiction.

54. The Courts into which all inquisitions to be taken under this Act shall be returned, to which all appeals upon such inquisitions shall lie, and which shall have jurisdiction in the matter of all moneys paid into Her Majesty's Public Provincial Treasury under the same, with all the other powers, authority and jurisdiction conferred upon such Court for the better carrying this Act into effect, shall be Her Majesty's High Court of Chancery for Upper Canada, and Her Majesty's Superior Court for Lower Canada; and in all cases in which the lands or other real property in respect of which the proceedings have arisen or are required, are situate in Upper Canada, all such jurisdiction in the premises shall be vested in and belong to Her Majesty's said High Court of Chancery for Upper Canada, and not in or to the said Superior Court; and in all cases in which such lands or other real property shall be situate in Lower Canada, all such jurisdiction in the premises shall be vested in and belong to Her Majesty's Superior Court for Lower Canada, and not in or to the said Court of Chancery:

Appeals.

2. Nevertheless, firstly, nothing herein contained shall extend to preclude appeals from such decisions of the said Courts respectively in the premises as would be incident to such decisions, from the nature or character thereof, according to the law of that section of the Province within which such Courts respectively have jurisdiction; and secondly, nothing herein contained shall extend to derogate from the original summary powers by

this Act conferred in certain cases on Justices of the Peace or other local Officers, or to prevent any such summary proceedings before any such Sheriff or others from being received or otherwise dealt with according to the laws of that section of the Province in which they have taken place.

APPOINTMENT OR NON-APPOINTMENT OF LORD HIGH ADMIRAL—
ITS EFFECT.

55. Whenever it pleases Her Majesty to appoint a Lord High Admiral of the United Kingdom, then and so long and as often as there is a Lord High Admiral of the United Kingdom, all the lands and powers vested in or given or hereafter to be vested in or given to the Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, under or by virtue of any Act or Acts now in force, or of this Act, or of any Act hereafter to be passed, shall be and become vested in the Lord High Admiral of the United Kingdom for the time being, in trust for Her Majesty, for the public service, and he, for the time being, shall be the sole Commissioner for carrying this Act into effect; but when and so often as there shall be no Lord High Admiral of the said United Kingdom, but it pleases Her Majesty to appoint any persons Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, then, so long as the said office is executed by Commissioners as aforesaid, all acts, deeds, matters and things done or executed by the said Commissioners in pursuance or under the authority of this Act, may be done or executed by any two of such Commissioners for the time being, and the same shall be as valid and effectual as if done or executed by all the said Commissioners.

Property to be
vested in Lor
High Adm
when there
shall be one,
&c.

56. The Lord High Admiral of the said United Kingdom for the time being, or if there be no Lord High Admiral, then the Commissioners for executing the Office of Lord High Admiral for the time being, or for any two or more of such Commissioners, may respectively from time to time as occasion requires, authorize and empower any person or persons, or any Officer or Officers, by his or their name or title of office, to exercise or execute all or any of the powers, authorities or duties, or to perform and do and execute all or any acts, matters and things, which, by virtue of this Act, the said Lord High Admiral, or Commissioners for executing the Office of Lord High Admiral, of the said United Kingdom, may exercise, execute, perform or do, as validly and effectually as the said Lord High Admiral or Commissioners aforesaid might exercise, execute, perform and do the same, and may revoke such authority at pleasure; and such authority shall, notwithstanding the death, resignation, or removal from office of such Lord High Admiral or Commissioner, or any one or more of them who have given the same, remain in force as if given by the said Lord High Admiral or Commissioners for executing the Office of Lord High Admiral for the time being, until revoked by the said

Powers given
by this Act
may be de-
puted.

Lord High Admiral for the time being, or by the Commissioners for executing the Office of Lord High Admiral for the time being, or any two of them.

INTERPRETATION.

Interpretation
clause.

57. In the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the following words shall bear the meaning assigned to them respectively, that is to say: the words "Her Majesty," or "the Crown," shall be held to mean and include Her Majesty and Her Royal Predecessors and Successors, and the words "Commissioners of the Admiralty," and the word "Commissioners," shall severally be construed to mean the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, for the time being, but shall apply also to the said Lord High Admiral whenever there is such Officer; the words "person" or "persons" shall each of them be construed to include all bodies politic, corporate, collegiate, ecclesiastical and civil, both aggregate and sole, as well as every private individual; the word "lands," shall be construed to include lands of every tenure, and also houses, buildings, grounds, tenements and hereditaments, both corporal and incorporeal, of every description and tenure, unless the context clearly requires that a more limited meaning be assigned to them.

Public Act

58. This Act shall be deemed and taken to be a Public Act.

SCHEDULE

Of certain Lands vested in the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, by this Act.

Firstly. The three Reserves in the Township of Sherbrooke, in the County of Haldimand, at or near the *embouchure* of the Grand River, on the north shore of Lake Erie, containing two hundred and eighty-eight acres, more or less, to wit: The first, at the mouth of Grand River, containing two hundred and nineteen acres, more or less; the second, at Barbet Point or *Point au Barbet*, containing forty-eight acres two roods and thirty-two perches, more or less; and the third, at Mohawk Bay, containing twenty acres, more or less.

Secondly. Those Reserves situate in the Townships of Tiny and Tay, in the County of Simcoe, on the south-easterly side of Penetanguishene Harbor, containing three hundred and eighty-nine acres, more or less.

Thirdly. Those Reserves situate near the City of Kingston, to wit: So much of Point Frederick, in the Township of Pittsburgh, in the County of Frontenac, now in the possession of the

Naval Authorities at Kingston, and included between a fence or fences on the south side of the road leading from the east end of the Cataragui Bridge to the Village of Barriefield, and another fence at the south-west end of the Naval Yard separating it from the Tower on the extremity of Point Frederick ; and also Point Frederick, the Inlets designated as Haldimand Cove and Hamilton Cove.

Fourthly. Those Reserves situate on the east branch of the Holland River, in the town plot of Gwillimbury, in the County of Simcoe, to wit : Lots numbers forty-nine, fifty, fifty-one and fifty-two, west side of Meadow Street, containing together about four acres.

Fifthly. Those Reserves at Pointe Pelée, in the Township of Mersea, in the County of Essex, containing three thousand acres, more or less.

Sixthly. Lot number thirteen, in the eleventh concession of the Township of Vespra, in the County of Simcoe, containing two hundred acres, more or less.

Seventhly. Lots number one, in the first and second concession of the Island of St. Joseph in Lake Huron, with the broken fronts to the south of the said lots, containing five hundred acres, more or less.

Eighthly. The south half of lot number six, in the ninth concession of the said Island of St. Joseph, on Milford Haven, containing one hundred and six acres, more or less.

Ninthly. All the land conveyed by a certain deed from Captain R. O'Connor, acting by his Attorney, J. B. Marks, to Commissioner R. Barrie, bearing date twenty-third of August, one thousand eight hundred and nineteen, and witnessed by Wm. Joseph Robins and James Nichols, Junior.

Except any of the said Lands transferred to the Province under the *Act respecting the Ordnance and Admiralty Lands transferred to the Province.*

6. PUBLIC WORKS.

31 VICT. CAP 12.

An Act respecting the Public Works of Canada.

[Assented to 21st December, 1867.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

DEPARTMENT OF PUBLIC WORKS.

Department
and Minister
of Public
Works.

1. There shall be one Department of Public Works for Canada, over which the "Minister of Public Works" for the time being, appointed by commission under the Great Seal of Canada, shall preside, and have the management and direction of the Department, and shall hold office during pleasure.

Deputy, Secretary, Chief
Engineer and
other officers.

2. The Governor may also appoint a Deputy of the Minister of Public Works, who shall be Chief Officer of the Department, a Secretary for the Department, a Chief Engineer, and such other officers as may be necessary for the proper conduct of the business of the Department, all of whom shall hold office during pleasure.

Temporary
Engineers, etc.

3. The Governor may also appoint from time to time as many Engineers, Superintendents and other officers as he may deem necessary for the construction, maintenance, use and repair of Public Works and Buildings, and may at his pleasure remove them or either of them.

Duties and
power of the
Deputy.

4. It shall be the duty of the said Deputy, and he shall have authority (subject always to the Minister) to oversee and direct the other officers and servants of the Department; he shall have the general control of the business of the Department, and such other powers and duties as may be assigned to him by the Governor in Council, and in the absence of the Minister and during such absence may suspend from his duties any officer or servant of the Department who refuses or neglects to obey his directions as such Deputy.

Duties of the
Secretary.

5. It shall be the duty of the Secretary, unless otherwise directed in any case by the Minister, to keep separate accounts

of the moneys appropriated for and expended on each Public Work and building; to submit the said accounts to be audited in such manner as may be appointed by the Governor in Council; to have charge of all plans, contracts, estimates, documents, titles, models, and other like things relating to any such work or building; to keep proper accounts with each contractor and other person employed by the Department; to see that all contracts are properly drawn out and executed; to prepare all certificates upon which any warrant is to issue; to keep minutes of all the proceedings of the Department, to prepare reports and to conduct, under the direction of the Minister, the correspondence of the Department, and generally to do and perform all such acts and things pertaining to the business of the Department as he may from time to time be directed to do and perform by the Minister; and a copy of any map, plan or other document in the custody and charge of the Secretary, certified by him as a true copy, shall be held to be authentic, and shall be *primâ facie* of the same legal effect as the original, in any Court or elsewhere.

Copies of documents certified by him to be authentic.

6. It shall be the duty of the Chief Engineer to prepare maps, plans and estimates for all Public Works which are about to be constructed, altered or repaired by the Department; to report for the information of the Minister, on any question relating to the Public Works which may be submitted to him; to examine and revise the plans, estimates and recommendations of other Engineers and officers, and generally to advise the Department on all engineering questions affecting the Public Works of the Dominion.

Duties of Chief Engineer.

7. No deeds, contracts, documents or writings shall be deemed to be binding upon the Department, or shall be held to be acts of the said Minister, unless signed and sealed by him or his deputy, and countersigned by the Secretary.

What acts only shall bind the Department.

8. All actions, suits and other proceedings at law or in equity, for the enforcement of any contract, agreement or obligation in respect of any public work, building or property under the control of the Department, shall be instituted in the name of Her Majesty's Attorney-General for Canada.

Actions for enforcing contracts, etc.

9. The Governor may from time to time require any person or corporation, or any provincial authority, having the possession or custody of any maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records, not being private property, and relating to any public work, building or property which is now or which may hereafter be placed under the control of the Department of Public Works, to deliver the same without delay to the Secretary of the Department.

Recovering possession of maps, plans, etc., relating to Public Works.

10. The Canals, Locks, Dams, Hydraulic Works, Harbours, Piers and other works for the improving the navigation of any

What works shall be under

the control of
the Depart-
ment.

water,—the slides, dams, piers, booms and other works for facilitating the transmission of timber,—the roads and bridges, the public buildings, the railways and rolling stock thereon, the vessels, dredges, scows, tools, implements and machinery for the improvement of navigation,—the Provincial Steamers, and all other property heretofore acquired, constructed, repaired, maintained or improved at the expense either of the late Province of Canada or of New Brunswick or Nova Scotia, and also the works and properties acquired or to be acquired, constructed or to be constructed, repaired or improved at the expense of Canada,—and also all such portions of the property known as the “Ordnance Property,” transferred to the late Provincial Government of Canada by the Imperial Government and afterwards placed under the control of the Department of Public Works,—shall be and shall continue to be vested in Her Majesty and under the control and management of the Minister of Public Works, with the following exceptions, viz. :—

Exceptions.

1st. Such public works and property as have been or may hereafter be lawfully transferred to either of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick ;

2nd. Such public works and property as have been or may hereafter be leased, sold, or otherwise lawfully transferred to municipalities, incorporated companies or other parties, unless the same are subject to be and are resumed by Her Majesty in virtue of the provisions of any Act, or of any lease, sale or transfer thereof, or relating thereto ;

3rd. Such public works and property as may by any Act of the present Session be placed under the control and management of any other Minister or Department ;

4th. Such public works, roads, bridges, harbours or property as have been or may hereafter be, by Proclamation, abandoned or left to the control of municipal or local authorities.

Other works
may be so
placed by Pro-
clamation.

11. The Governor may, from time to time, by Proclamation, declare any other works, roads, bridges, harbours, slides, light-houses or buildings purchased or constructed at the public expense, and which have not been assigned to any Provincial Government, to be works, roads or buildings subject to the provisions of this Act, and they shall thenceforth be under the management of the Department.

Existing con-
tracts, etc.,
continued.

12. All contracts, bonds, agreements or leases for or respecting any work or building, now the property of Canada, or for any tolls for the same, entered into by the Commissioner of Public Works of the late Province of Canada, or by the Board of Works of the Province of Nova Scotia or of the Province of New Brunswick, or by any commissioners or other persons duly authorized to enter into the same, shall enure to the use

of Her Majesty, and may be enforced as if they had been entered into with Her Majesty under the authority of this Act.

13. All lands, streams, water-courses and property acquired for the use of Public Works or Buildings, shall be vested in Her Majesty, and when not required for the said works or buildings, may be sold or disposed of under the authority of the Governor, and all hydraulic powers created by the construction of any public work, or the expenditure of public money thereon, shall be vested in Her Majesty, and any portion thereof not required for the public works, may be sold or leased under the authority aforesaid; and the proceeds of all such sales and leases shall be accounted for as public money.

Lands, water-courses, etc., acquired for Public Works, how vested and managed.

Proceeds of sales or leases.

14. All public works and buildings hereafter constructed or completed at the expense of Canada, shall, unless otherwise provided by law, be under the control of the Department and subject to the provisions of this Act.

All Public Works paid for by the Dominion to be under control of Department.

15. The Minister shall direct the construction, maintenance and repair of all canals, harbours, roads or parts of roads, bridges, slides and other public works or buildings, in progress or constructed, or maintained at the expense of Canada, and which by this Act are or shall hereafter be placed under his management and control; but nothing in this Act shall give authority to the Minister to cause expenditure not previously sanctioned by Parliament, except for such repairs and alterations as the necessities of the public service may demand.

Expenditure for construction or repair of Works.

16. No warrant shall be issued for any sum of the public money appropriated for any public work under the management of the said Minister, except on the certificate of the Minister or his deputy, that such sum ought to be paid to any person named in the certificate, in whose favour a warrant may then issue, which warrant shall in all cases be deemed a legal tender to such person.

Warrants for money for Public Works.

17. The Minister or his deputy may require any account sent in by any contractor, or any person in the employ of the Department, to be attested on oath, which oath, as well as that to be taken by any witness, the Minister or his deputy may administer.

Attesting accounts of contractors.

18. The Minister may send for, and examine, on oath, all such persons as he deems necessary, touching any matter upon which his action is required, and may cause such persons to bring with them such papers, plans, books, documents and things, as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements, and such persons shall attend at the summons of the Minister after due notice, under the penalty of five pounds in each case.

Power to examine persons on oath.

Annual report to the Governor, to be laid before Parliament.

19. The Minister shall make and submit to the Governor an annual Report on all the works under his control, to be laid before both Houses of Parliament within twenty-one days from the commencement of each Session, showing the state of each work and the amounts received and expended in respect thereof, with such further information as may be requisite.

Tenders to be invited for works: exception.

20. It shall be the duty of the Minister to invite tenders by public advertisement for the execution of all works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where, from the nature of the work, it could be more expeditiously and economically executed by the officers and servants of the Department.

Security to be taken from contractors.

21. The Minister, in all cases, or where any public work is being carried out by contract, shall take all reasonable care that good and sufficient security be given to and in the name of Her Majesty for the due performance of the work, within the amount and time specified for its completion; and also in all cases where it seems to the Minister not to be expedient to let such work to the lowest bidder, it shall be his duty to report the same and obtain the authority of the Governor previous to passing by such lowest tender; but no sum of money shall be paid to the contractor on any contract, nor shall any work be commenced until the contract has been signed by all the parties therein named, nor until the requisite security shall have been given.

Provision when the lowest tender is not taken.

POWER TO TAKE LANDS, &c.

Power to make surveys, etc.

22. The Minister is hereby empowered to authorize the engineers, agents, servants and workmen employed by or under him to enter into and upon any ground to whomsoever belonging, and to survey and take levels of the same, and to make such borings or sink such trial pits as he deems necessary for any purpose relative to the works under his management.

Certain persons employed by the Department to have like powers as to surveys, as if they were licensed surveyors for the Province where they act for the Department.

23. The Minister may employ any Engineer, or any person duly licensed or empowered to act as a Surveyor for any Province in Canada, to make any survey, or establish any boundary, and furnish the plans and descriptions of any property acquired or to be acquired by Her Majesty for the use of Canada; and such surveys, boundaries, plans and descriptions shall have the same effect as if the operations pertaining thereto or connected therewith had been performed by a Land Surveyor duly licensed and sworn in and for the Province in which the property is situate; and the boundaries of such properties may be permanently established by means of proper stone or iron monuments, planted by the Engineer or Surveyor so employed by the Minister, and shall be of the same effect to all intents and purposes as if such boundaries had been drawn and such monuments planted by a Land Surveyor duly licensed and

sworn for the Province in which the property is situate; and shall be held to be the true and unalterable boundaries of such property,—provided such boundary lines are so established and such monuments of iron or stone are planted after due notice thereof has been given in writing to the proprietors of the lands to be thereby affected, and that a *Procès-verbal* or written description of such boundaries is approved and signed, in the presence of two witnesses, by such Engineer or Surveyor on behalf of the Minister, and by the other parties concerned; or that in case of the refusal of any party to approve or to sign the same, such refusal is recorded in such *Procès-verbal* or description; and provided such boundary marks or monuments are planted in the presence of at least one witness, who shall sign the said *Procès-verbal* or description, which shall afterwards be deposited with the Secretary of the Department as part of the records of his office.

24. The Minister may at all times acquire and take possession, for and in the name of Her Majesty, of any land or real estate, streams, waters, and water-courses, the appropriation of which is in his judgment necessary for the use, construction and maintenance of any Public Work or Building, or for the use, construction or maintenance of hydraulic privileges made or created by, from or at any Public Work, or for the enlargement or improvement of any Public Work or for obtaining better access thereto; and he may for such purpose contract and agree with all persons, seigniors, bodies corporate, guardians, tutors, curators and trustees whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on the behalf of those whom they represent, whether infants (minor children,) absentees, lunatics, married women or other persons otherwise incapable of contracting, possessed of or interested in such lands, real property, streams, water and water-courses, and all such contracts and agreements, and all conveyances or other instruments made in pursuance of any such contract or agreement shall be valid to all intents and purposes whatever.

Power to take possession of and to acquire lands.

Parties enabled to contract.

25. The Minister and his agents may enter upon any uncleared or wild land, and take therefrom all timber, stones, gravel, sand, clay or other materials which he or they may find necessary for the construction, maintenance and repair of Public Works or Buildings under his management, or may lay any materials or things upon any such land, for which compensation shall be made at the rate agreed on or appraised and awarded as herein provided; and the Minister may make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits, required by him for the convenient passing to and from the works during their construction and repair, and may enter upon any land for the purpose of making proper drains to carry off the water from any public work, or for keeping such drains in repair, making compensation as aforesaid.

Power to take materials from uncleared lands.

Payment of
compensation.

26. The compensation agreed on between the parties, or appraised and awarded in the manner hereinafter set forth, shall be paid for such land, real property, streams, waters and water-courses, timber, stone or other material, to the owners or occupiers of such lands or property, or to the persons suffering such damage as aforesaid, within six months after the amount of such compensation has been agreed on or appraised and awarded.

By 37 V. c. 13, sec. 4, page 339 post, the above section shall not apply to any case where compensation is made under that Act, but the payment into Court permitted by that Act is to be made within six months after the compensation has been settled.

Notice, and
tender before
taking possession.

27. When any such owner or occupier refuses or fails to agree for conveying his estate or interest in any land, real property, streams or water-courses as aforesaid, the Minister may tender the reasonable value in his estimation of the same, with notice that the question will be submitted to the arbitrators hereinafter mentioned; and in every case the Minister may, three days after such agreement or tender and notice, authorize possession to be taken of such land, real property, streams or water-courses so agreed or tendered for.

Notice when
the owners
do not reside
on the land.

28. If the owners of such land, real property, streams or water-courses, do not reside on or near the property so required, then notice shall be given in the "Canada Gazette," and in two newspapers published in or near the District or County in which such property is situate, of the intention of the Minister to cause possession to be taken of such lands, or real property, streams or water-courses, and after ten days from the publication of the last notice possession may be taken accordingly.

Power to alter
the line of
any public
road.

29. The Minister may discontinue or alter any part of a public road, where it is found to interfere with the proper line or site of any public work, as aforesaid; but before discontinuing or altering such public road he shall substitute another convenient road in lieu thereof; and the land theretofore used for any road, or part of a road, so discontinued may be transferred by the Minister to, and shall thereafter become the property of the owner of the land of which it originally formed part.

Removal of
fences adjoining
any
Public Work,
and construction
of ditches.

30. Whenever it is necessary, in the prosecution of any Public Work, for the Minister or his contractors or servants to take down or remove any wall or fence of any owner or occupier of lands or premises adjoining such public work, or to construct any back ditches or drains for carrying off the water accumulating behind the banks of any Public Canal, the Minister or contractors or their authorized servants shall replace such wall or fence as soon as the necessity which caused their being taken down or removed has ceased, and after the same has been so replaced, or when such drain or back

Obligations
of landowners.

ditch is completed, the owner or occupier of such lands or premises shall maintain such walls or fences, drains or back ditches, to the same extent as such owner or occupier might be by law required to do, if such walls or fences had never been so taken down or removed, or such drains or back ditches had always existed.

OFFICIAL ARBITRATORS.

31. The Governor may, from time to time, constitute a Board of Arbitration and appoint any number of persons not exceeding four, who shall be arbitrator or arbitrators and appraiser or appraisers for Canada, and who shall arbitrate on, appraise, determine and award the sums which shall be paid to any person for land or property taken for any public work, or for loss or damage caused by such taking, or in respect of any claim arising out of any contract, and with whom the said Minister has not agreed and cannot agree; and every such arbitrator shall receive such remuneration as shall be from time to time fixed by the Governor.

How appointed, and for what purpose.

Remuneration.

32. The said arbitrator or arbitrators shall take, before the said Minister or some one of Her Majesty's Justices of the Peace, the following oath:

Oath of office.

"I, A. B., do swear that I will well and truly hear, try and examine into such claims as may be submitted to me for compensation for land or property taken possession of for the use and purposes of [or *as the case may be*,] and that I will also well and truly examine into such claims as may be submitted to me for compensation for damages consequent upon the construction of any public work, or for payment or allowance in respect of any contract; and that I will give a true judgment and just award thereon to the best of my knowledge and ability; and that I will take into due consideration the benefits derived and to be derived by the claimants through the construction of such public work, as well as the injury done thereby. So help me God."

Form.

33. The Governor may appoint one or more proper persons to act as clerk or clerks to the said arbitrator or arbitrators, and may remove any such clerk and appoint another or others, whenever he sees fit; and may fix the amount of the remuneration to be allowed any such clerk.

Clerk to the arbitrators.

WHAT CASES MAY BE REFERRED TO ARBITRATION.

34. If any person or body corporate has any claim for property taken, or for alleged, direct or consequent damage to property, arising from the construction, or connected with the execution of any public work, undertaken, commenced or performed at the expense of the Dominion, or of the late Province of Canada, or of the Province of Nova Scotia or New Bruns-

How and in what cases claims are to be made.

Tender of satisfaction by the Minister.

Form of tender by Minister.

Security for costs by claimant.

Claim may be referred to one or more of the arbitrators.

One arbitrator may take the evidence, &c.

No arbitration in cases where the contrary is provided by the contract.

wick, or for the defence of Canada, or any claim arising out of or connected with the execution or fulfilment, or on account of deductions made for the non-execution or non-fulfilment of any contract for the construction of any such public work, made and entered into with the said Minister, either in the name of Her Majesty, or in any other manner whatsoever, or with any Board or Commissioners lawfully authorized to enter into the same on behalf of the late Province of Canada, or of the said Provinces of Nova Scotia or New Brunswick, such person or body corporate may give notice in writing of such claim to the said Minister, stating the particulars thereof, and how the same has arisen;—And thereupon the Minister may at any time within thirty days after such notice tender what he considers a just satisfaction for the same, with notice that the said claim will be submitted to the decision of the arbitrators acting under this Act, unless the sum so tendered is accepted within ten days after such tender, which shall be deemed to be legally made by any written authority for the payment of such sum given under the hand of the Minister, and notified to the person or body corporate having such claim;—And a tender so made shall be sufficient likewise in case of tender of compensation by the Minister under any other section of this Act;

2. But before any claim under this or any other section of this Act shall be arbitrated upon, the claimant shall give security to the satisfaction of the arbitrators (or any one of them), for the payment of the costs and expenses incurred by the arbitration in the event of the award being against such claimant, or of its not exceeding the sum so tendered as aforesaid.

35. The Minister may refer any of the claims aforesaid either to one or to any greater number of arbitrators as he may see fit; and except in case of appeal as hereinafter provided, when the claim has not been referred to the whole Board, the award of the sole arbitrator shall be binding if there be only one, and the award of a majority of the said arbitrators if there be three or more acting in the case, shall be binding as if made by all the arbitrators; and in any case where the claim is referred to more than one of the arbitrators, any one of them may receive the evidence and hear the parties, and may exercise all the powers of the arbitrators preliminary or incident to the hearing and to the taking of the evidence, which shall thereafter be submitted to all the arbitrators to whom the case is referred, and the award of the majority of whom shall be binding, except in case of appeal as aforesaid.

36. No arbitration shall be allowed in any case where by the terms of the contract therein it is provided that the determination of any matters of difference arising out of or connected with the same shall be decided by the Minister, or the Architect, or by any Engineer or Officer of the Department.

37. No claim for land or other property alleged to have been taken for, or injured by, the construction, improvement, maintenance or management of any Public Work, or for damages alleged to have been occasioned directly or indirectly to any such land or other property by the construction, maintenance or management of any such Public Work,—and no claim arising out of, or connected with the execution or agreement for the construction of any such Public Work, or of any part thereof, shall be submitted to or be entertained by the arbitrators under this Act, unless such claims and the particulars thereof have been filed with the Secretary of the Department within twelve calendar months next after the loss or injury complained of, when such claim relates to the taking of, or damage occasioned to, land or other property,—and when such claim relates to, or is alleged to arise out of, the execution or fulfilment of any contract or agreement for the construction of any Public Work, unless the same has been filed, as aforesaid, within three calendar months next after the date of the final estimate made under such contract; but nothing in this section shall prevent the arbitrators from entertaining, investigating or awarding upon any claims filed in the proper Office within the delay allowed by any Act then in force in the Province in which such work was constructed.

Limitation of time within which claims must be made.

Proviso: as to claims filed under former Acts.

POWERS OF THE ARBITRATORS, AND PROCEEDINGS BY OR BEFORE THEM.

38. The said Arbitrator or Arbitrators may, by summons or order in writing, signed by any one of them or by their Clerk, to be left at the last usual place of residence of the party to whom it is addressed, command the attendance from any part of Canada of all witnesses, or the production of any documents required by any of the parties, and may swear the said witnesses to testify truly respecting the matters on which they are to be interrogated;—and the disobedience of such summons or order in writing, or neglect to attend and produce such documents, shall subject the party disobeying, neglecting or refusing to a penalty of not less than five dollars nor more than twenty five dollars, to be recovered before any Justice of the Peace and levied under the warrant of such Justice, by distress and sale of the goods and chattels of the offender unless the party establishes reasonable cause for such disobedience, neglect or refusal.

Power to summon witnesses

Penalty for non-attendance.

2. But no person shall be compelled to produce any document that he would not be compelled to produce at a trial in the Queen's Bench, Common Pleas, Supreme Court or Superior Court; or to attend as a witness more than three consecutive days; and every witness shall be allowed, in addition to his reasonable travelling expenses, a sum not exceeding five shillings a day at the discretion of the arbitrators; and such remuneration shall be paid by the party requiring his attendance.

As to documents to be produced.

Allowance to witnesses.

Arbitrators to consider the advantages as well as disadvantages of the work to the claimant

39. The Arbitrators shall consider the advantage as well as disadvantage of any Public Work, as respects the land, or real estate of any person through which the same passes or to which it is contiguous, or as regards any claim for compensation for damages caused thereby; and the Arbitrators shall, in assessing the value of any land or property taken for the purpose of any Public Work, or in estimating and awarding the amount of damages to be paid by the Department to any person, take into consideration the advantages accrued, or likely to accrue to such person or his estate, as well as the injury or damages occasioned by reason of such work.

Value to be estimated as at the time of taking possession, etc.

40. The Arbitrators, in estimating and awarding the amount to be paid to any claimant for injury done to any land or property, and in estimating the amount to be paid for lands taken by the Minister, under this Act, or taken by the proper authority under any former Act, shall estimate or assess the value thereof at the time when the injury complained of was occasioned, and not the value of the adjoining lands at the time of making their award.

Awards upon contracts.

41. In awarding upon any claim arising out of any contract in writing, the Arbitrators shall decide in accordance with the stipulations in such contract, and shall not award compensation to any claimant on the ground that he expended a larger sum of money in the performance of his contract than the amount stipulated therein, nor shall they award interest on any sum of money which they consider to be due to such claimant, in the absence of any contract in writing, stipulating payment of such interest;—And no clause in any such contract in which a drawback or penalty is stipulated for the non-performance of any condition thereof, or any neglect to complete any public work, or to fulfil any covenant in such contract, shall be considered as comminatory, but it shall be construed as importing an assessment, by mutual consent, of the damages caused by such non-performance or neglect.

How penalties in contracts shall be construed.

Evidence to be taken in writing.

42. In the investigation of any claim the Arbitrators shall cause all legal evidence offered on either side to be taken down and recorded in writing, and shall make and keep a list of all plans, receipts, vouchers, documents and other papers which may be produced before them during such investigation; but they may, with the consent in writing of the Minister, and of the opposite party, take the testimony of the witnesses adduced on either side orally, and in such case need not reduce it to writing.

Except by consent.

Copies of awards to be furnished.

43. The Arbitrators shall deliver to the Minister a copy of their award in each case, and to each individual claimant a copy of so much thereof as relates to his particular claim, within one month after they have agreed to the same.

44. If in any case where a claim has, under the thirty-fifth section, been referred to one Arbitrator, or to more than one Arbitrator but not to the whole Board, the claimant is dissatisfied with the award made, such claimant may, by notice in writing, delivered to any Arbitrator who has joined in the award, or the Clerk of the Board, within one month after the award has been notified to the claimant, pursuant to the forty-third section of this Act, appeal to the Board of Arbitration, and it shall be the duty of the Board to hear the appellant and to make such decision and award as to them, or a majority of them, may seem just, from which decision and award there shall be no further appeal whatever.

Appeal to the whole Board in cases where all the Arbitrators have not acted.

45. In case of such appeal, the appellant shall have no right to adduce further evidence than that already given on the original reference, unless he shews to the satisfaction of the Board that his knowledge of the existence of such further evidence has arisen since the first hearing of the case, or unless the Board shall think it right on hearing the claimant to admit further evidence.

In what case only new evidence may be adduced on appeal.

46. The Clerk to the Arbitrators shall, on payment at the rate of sixpence for every hundred words, and one shilling additional for every certificate, deliver to any person requiring the same certified copies of any depositions or papers taken or filed before the Arbitrators.

Copies of depositions, &c.

47. If the sum awarded in any case is greater than the sum tendered, the Minister shall pay the costs of arbitration, but if less, the costs shall be paid by the person who refused the tender.

By whom the costs shall be paid.

48. And such costs shall in other cases where the award is in favour of the claimant, be paid by the Minister, in addition to the sum awarded, and shall in either case be taxed by the proper officer of the Court of Queen's Bench, Supreme Court or Common Pleas, in the Provinces of Ontario, Nova Scotia and New Brunswick, and in the Province of Quebec by a Judge of the Superior Court.

The same, and how taxed.

WORKS FOR DEFENCE.

49. The Governor in Council may declare any work for or connected with the defence of Canada, to be a Public Work within the purview of this Act, whether such work is to be constructed or the land required for it is to be acquired, wholly at the expense of Canada or partly, or wholly at the expense of the Imperial Government; and all the powers conferred upon the Minister of Public Works, and upon the official Arbitrators or any of them, by the sections of this Act numbered from twenty-two to forty-eight both inclusive, and all the provisions of the said sections, shall then extend and apply to such work, and to the lands and property required for the

Works for defence may be declared public works within this Act.

same, as shall also such other sections and provisions of this Act as the Governor in Council may from time to time direct.

Powers of the Minister to extend to the exercise of clearance rights.

50. With respect to any work so declared to be a Public Work, the powers of the Minister of Public Works shall extend to the demolition and removal of all such buildings, walls, woods, trees, fences or other obstructions, natural or artificial, and to the filling up of such hollows, natural or artificial, on any land, as would in the opinion of the Engineers, civil or military, employed on such work, impair the effect thereof, and to the preventing the construction or existence of any such obstruction thereafter, without acquiring the land itself; and the said Minister or his agents may, after notice as provided by sections twenty-seven and twenty-eight, and tender of reasonable compensation in his estimation for the right intended to be exercised, enter upon any such lands and cause the required work to be performed, and may at any time thereafter again enter thereupon and remove any such obstruction so as to restore the land to the state in which it was after the first performance of such work; and if the renewal of any such obstruction has been caused by the fault of the owner of the lands, or of those through whom he claims, the cost of removing it may be recovered from him by the said Minister; and the compensation to be paid for the exercise of the powers given by this section shall, if not agreed upon by the parties, be determined by the official Arbitrators above mentioned.

Compensation to be fixed by Arbitrators.

Powers of H. M. Principal Secretary of State for the War Department, under former Acts, saved.

51. Nothing in this Act shall affect the powers vested in Her Majesty's Principal Secretary of State for the War Department, by the Act of the Legislature of the late Province of Canada, passed in the twenty-ninth year of Her Majesty's reign, chapter seven (which shall hereafter be construed as referring to this Act and to the Minister and Arbitrators herein-mentioned, instead of the Commissioner and Arbitrators mentioned in the said Act) or by any other Act of the said late Province or of either of the Provinces of Nova Scotia or New Brunswick, or shall affect any provision of any such Act not inconsistent with this Act; And any work in any part of Canada, certified by the Commander of Her Majesty's Forces in Canada, or in the Province in which such work is or is to be situate, to be required for defence of Canada, shall be held to be a Public Work within the meaning of this Act, and the said Principal Secretary of State shall have the same powers and rights with regard to the taking possession of lands or materials required for any such work, and with regard to lands required to be cleared and kept cleared of obstructions as aforesaid, as are hereby vested in the Minister, and the price to be paid for such lands or the compensation to be paid for the exercise of such powers and rights, if not agreed upon by the parties, shall be determined by the official Arbitrators appointed under this Act, as if such lands had been taken, or such powers and rights exercised, by the said Minister.

His powers under this Act.

SALE OR TRANSFER OF PUBLIC WORKS TO LOCAL AUTHORITIES.

52. The Governor may by Proclamation declare any Public Road or Bridge under the management and control of the Minister, to be no longer under his control ;—And upon, from and after a day to be named in the Proclamation, such road or bridge shall cease to be under the management and control of the Minister, and no tolls shall thereafter be levied thereon under the authority of this Act.

Works may be declared no longer under control of the Minister.

53. Any public road or bridge declared, as aforesaid, to be no longer under the management of the Minister, shall be under the control of and shall be maintained and kept in repair by the municipal or other authorities of the locality, and the Road Officers thereof, in like manner with other Public Works and Bridges therein under their control.

How they shall then be kept up, &c.

54. The Minister may enter into arrangements with any Provincial Government, Municipal Council or other local Corporation or authority, or with any Company in Ontario or Quebec, incorporated for the purpose of constructing or holding such work or works of like nature in the same Province, for the transfer to them of any of the Public Roads, Harbours, Rivers or River Improvements, Bridges or Public Buildings (whether within or without the limits of the local jurisdiction of such Municipal Councils or other authorities), which it is found convenient to place under their management ;—And on the completion of such arrangements, the Governor may grant, and by so granting, transfer and convey for ever or for any term of years, all or any of such Roads, Harbours, Rivers and River Improvements, Bridges or Public Buildings to such Provincial Government, Municipal Council or other local authority or Company (hereinafter called the Grantee), upon such terms and conditions as have been agreed upon ; and for and notwithstanding anything in this or any other Act, the said Governments, Municipal Councils or other local authorities may enter into such arrangements and may take and hold any works so transferred.

Power to enter into arrangements for transfer of works to local authorities, &c.,

Transfer how made.

55. Any such grant may be made by Order in Council, published in the "Canada Gazette ;"—and by such Order any or all of the powers and rights vested in the Crown, or in any officer or Public Department, in respect of such Public Work, may be granted to and vested in the Grantee to whom the Public work is granted ;

Form and effect of transfer.

2. And such Order in Council may contain any conditions, clauses and limitations agreed upon, which, as well as all the provisions of such Order in Council, shall (in so far as they are not inconsistent with this Act, and do not purport to grant any right or power not immediately before the making of such Order in Council, vested in the Crown or in the Governor, or in some Officer or Department of the Government,) have force

Conditions and limitations of the grant.

and shall be obeyed, as if they had been contained in this Act, and had made part of the enactments thereof;

Revoking or amending the grant.

3. And any such Order in Council may, with the consent of the Grantee, be revoked or amended by any subsequent Order in Council published as aforesaid;—and a copy of the *Canada Gazette* containing any such Order in Council shall be evidence thereof,—and the consent of the Grantee thereto shall be presumed unless disputed by such Grantee, and if disputed, shall be proved by any copy of such Order in Council, on which the consent of the Grantee thereto shall be written and attested by such signature or seal, or both, as would be sufficient to make any Deed or Agreement the Deed or Agreement of such Grantee.

What the conditions of the grant may extend to.

56. The provisions and conditions of any Order in Council made under this Act may extend—to the mode of adjusting and determining any difference arising between the Crown and any Municipal Corporation, Local Authority or Company, as to their respective rights under the same,—or to the reservation of the right of re-entry by the Crown into possession of any Public Work on the default of such Corporation, Authority or Company to perform the conditions agreed upon,—and to the vesting in any Sheriff power to give possession of such Public Work to any Public Officer for the Crown, on any warrant under the hand and seal of the Governor to be addressed to such Sheriff, reciting such default and commanding him to give possession to such Officer for the Crown as aforesaid;—And no enactment made for the purpose of enforcing the provisions of any such Order in Council as aforesaid, shall be deemed an infringement of the rights of the Municipal Corporation, Local Authority or Company to which it relates, but nothing in this section shall prevent the enforcement of the rights of the Crown in any legal manner not inconsistent with the provisions and conditions of any such Order in Council.

Enactments may be made for enforcing conditions.

Work transferred to be kept in thorough repair.

57. One of the conditions of every such lease or transfer of any Bridge, Road or Public Work, shall be—that such work shall be kept in thorough repair, and that for all the purposes of such contract, sale or lease, the sufficiency of such repair shall be ascertained and decided on by such Engineer as shall be appointed to examine the same by the Minister.

TOLLS ON PUBLIC WORKS.

Governor in Council may impose tolls for use of Public Works.

58. The Governor may, by Order in Council to be issued and published as hereinafter provided, impose and authorize the collection of Tolls and Dues upon any Canal, Railway, Harbour, Road, Bridge, Ferry, Slide, or other Public Work vested in Her Majesty, or under the control or management of the Minister, and from time to time in like manner may alter and change such Dues or Tolls, and may declare the exemptions therefrom; and all such Dues and Tolls shall be payable in advance and be-

fore the right to the use of the Public Work in respect of which they are incurred shall accrue, if so demanded by the Collector thereof.

59. The same tolls shall be payable on steamboats or vessels of any kind and passengers, brought down the River St. Lawrence, past any of the Canals between Montreal and Kingston, as would be payable on such steamboats, vessels or passengers, if the same had been brought through the Canal or Canals past which they are so brought down; and such tolls shall be levied in like manner, and under the like penalties and forfeitures for the non-payment thereof.

Tolls on the St. Lawrence canals.

60. Her Majesty's Officers and Soldiers, being in proper uniform, dress or undress (but not when passing in any hired or private vehicle), and all carriages and horses employed in Her Majesty's service, when conveying persons or baggage, shall be exempted from payment of any tolls on using or travelling over any road or bridge under the control of the Department, but nothing herein shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage or stores along any canal, from payment of tolls in like manner as other boats, barges and vessels are liable thereto.

Exemptions from toll in favour of H. M. troops.

Exemption as to canals limited.

61. All tolls and dues imposed under this Act may be recovered, with costs, in any Court having civil jurisdiction to the amount, by the Collector or person appointed to receive the same, in his own name or in the name of Her Majesty, and by any form of proceeding by which debts to the Crown may be recovered;

Recovery of tolls.

2. And all pecuniary penalties imposed by this Act, or by any regulation made under the authority thereof, shall be recoverable with costs before any Justice of the Peace for the District, County or place in which the offence was committed, upon proof by confession or by the oath of any one credible witness, and may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such Justice; And if sufficient distress cannot be found, and such penalty be not forthwith paid, such Justice may, by warrant under his hand and seal, cause the party offending to be committed to the Common Gaol of the District or County, there to remain without bail or mainprize, for such time as such Justice may direct, not exceeding thirty days, unless such penalty and costs be sooner paid;—And such penalties shall belong to Her Majesty for the use of the Dominion;

Recovery of penalties.

Levying penalties.

Appropriation.

3. Provided always, in respect to tolls and dues on timber passing any slide, and to penalties for violating any regulation respecting such slides, or for non-payment of such tolls and dues, that the same may be enforced, imposed and collected, by and before any Justice of the Peace within any District or County in Canada in which the timber respecting which such

As to tolls and dues on timber.

tolls or dues, or the person from whom such payment or penalty is demanded, happens to be at the time application is made to such Justice to enforce payment of the same.

Goods on board vessels liable for tolls, &c.

62. The goods on board of any such steamboat, vessel, raft, crib or other craft, or the animal or animals attached to any carriage or vehicle, and the goods contained therein to whomsoever the same belong, shall be liable for any Tolls, Dues or Fines so imposed and levied,—and they or any of them may be seized, detained and sold in the same manner as the steamboat, vessel or other craft, carriage or vehicle, in which they are or to which they are attached, as if they belonged to the person contravening any such Regulation,—saving the recourse of the real owner thereof against such person who shall be deemed the owner for the purposes of this Act.

Moneys from tolls to be paid over to the Receiver General.

63. All tolls, dues or other revenues imposed and collected on Public Works, shall be paid by the persons receiving the same to the Receiver-General of Canada, in such manner and at such intervals as may be appointed by him, but such intervals shall in no case exceed one month.

Tolls on public roads may be let out to farm.

64. The Governor may order the Tolls at the several gates erected or to be erected on any public road or bridge vested in the Crown, or under the management of the Minister, to be let to farm under such regulations and by such form of lease as he thinks expedient ;—and the lessee or farmer of such Tolls, or any person he may appoint, may demand and take such Tolls, and proceed for the recovery of the same in the name of such lessee or farmer, in case of non-payment or evasion thereof, in the same manner and by the same means as are given by law to any collector of Tolls or other persons authorized to collect the same.

REGULATIONS FOR USE OF PUBLIC WORKS.

Governor in Council may make regulations for such use,

65. And for the due use and proper maintenance of all such Public Works, and to advance the public good, the Governor may, by Order in Council, enact from time to time such Regulations as he may deem necessary for the management, proper use and protection of all or any of the Public Works, or for the ascertaining and collection of the Tolls, Dues and Revenues thereon.

And impose fines for contravention.

66. The Governor may, by such Orders and Regulations, impose such Fines, not exceeding in any one case one hundred pounds, for any contravention or infraction of any such Order or Regulation, as he deems necessary for ensuring the observance of the same and the payment of the Tolls and Dues to be imposed as aforesaid,—and may also by such Orders and Regulations provide for the non-passing or detention and seizure, at the risk of the owner, of any steamboat, vessel or other craft, carriage, animal, timber or goods, on which Tolls or Dues have

Or authorize the seizure and sale of vessels contravening regulations.

accrued and have not been paid, or in respect of which any such Orders or Regulations have been contravened or infringed, or any injury done to such Public Works and not paid for, or for or on account of which any fine has been incurred and remains unpaid,—and for the sale thereof, if such Tolls, Dues, Damages or Fine be not paid by the time to be fixed for the purpose, and for the payment of such Tolls, Dues, Damages or Fine out of the proceeds of such sale, returning the surplus, if any, to the owner or his agent; but no such provision shall impair the right of the Crown to recover such Tolls, Dues, Fine or Damages in the ordinary course of law; and any such Tolls, Dues or Fines may always be recovered under the sixty-first section of this Act.

Proviso :
rights of the
Crown saved.

67. And whereas, for the better protection of life and property, as well on the Public Works and Railways of the Dominion, as on Railways managed by Companies in Nova Scotia and New Brunswick, it is expedient to extend to them the provisions made for that purpose as regards Railways managed by Companies in Quebec and Ontario, therefore, if any officer or servant of, or any person employed by the Department on any Railway or Public Work being under the control of the Department, or by any Railway Company in Nova Scotia or New Brunswick, wilfully or negligently contravenes any by-law, order or regulation of the Department, or of the Company, or any Order in Council, lawfully made or in force respecting the Railway or the Public Work on which he is employed, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed,—then if such contravention causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been without such contravention, although no actual injury occurs, such contravention shall be a misdemeanour, and the person convicted thereof shall in the discretion of the Court, before whom the conviction is had, and according as such Court considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment or both, so as no such fine exceeds four hundred dollars, nor any such imprisonment the term of five years; and such imprisonment, if for two years or upwards, shall be in the Penitentiary for the Province in which the conviction takes place.

Recital.

Punishment
of persons
employed on
Public Works
and Railways,
disobeying
regulations
lawfully
made.

If injury is
done by such
disobedience,
to person or
property.

68. If such contravention does not cause injury to any property or person, nor expose any property or person to the risk of injury, nor make such risk greater than it would have been without such contravention, then the officer, servant, or other person guilty thereof, shall thereby incur a penalty not exceeding the amount of thirty days' pay, nor less than fifteen days' pay of the offender from the Department or Company, in the discretion of the Justice of the Peace before whom the conviction is had, and such penalty shall be recoverable with costs

If no such
injury is done.

before any one Justice of the Peace having jurisdiction where the offence has been committed or where the offender is found, on the oath of one credible witness other than the informer.

Appropriation
of pecuniary
penalties.

69. One moiety of any pecuniary penalty under either of the two next preceding sections shall belong to Her Majesty for the public uses of the Dominion, and the other moiety to the informer, unless he be an officer or servant of, or person in the employ of the Department or Company, in which case he shall be a competent witness, and the whole penalty shall then belong to Her Majesty for the uses aforesaid.

Regulations,
&c., to be
published in
the Gazette.

70. All Proclamations, Regulations or Orders in Council made under this Act shall be published in the *Canada Gazette*, and a copy of such Gazette purporting to be printed by the Queen's Printer, and containing any such Proclamation, Order or Regulation, shall be legal evidence thereof.

Repeal of Acts
inconsistent
with this Act.

71. All Acts and parts of Acts of the late Province of Canada, or of the Province of Nova Scotia or New Brunswick, which were in force immediately before the day when this Act comes into effect, shall be repealed upon, from and after that day, so far as they are inconsistent with this Act, and shall be superseded by this Act so far as they make the same provision in effect in any case as is made therein by this Act;—but the enactments in this Act, so far as they are the same in effect as those so superseded, shall be construed as declaratory and as having been in force from the time when the enactments they supersede respectively became law;—so that (among other things) all rights acquired, all appointments made and all proceedings commenced under any such enactments shall remain valid and be continued under the corresponding enactments of this Act, as being in effect the same law; and no Act or enactment repealed by any Act or enactment hereby repealed shall revive by reason of such repeal.

Effect of re-
peal limited.

33 VICT. CAP. 23.

An Act to extend the powers of the Official Arbitrators, to certain cases therein mentioned.

[Assented to 12th May, 1870.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. If any person or body corporate now has or shall hereafter have any supposed claim upon the Government of Canada, for property taken for any public use, service or purpose, not coming within the purview of the Act passed in the thirty-first year of Her Majesty's Reign, chaptered twelve, and intituled "An Act respecting the Public Works of Canada," or for alleged, direct or consequent damages to property, arising out of anything heretofore done or hereafter to be done by the Government of Canada, and not coming within the purview of the said Act, or arising out of any death, or any injury to person or property on any railway, canal or public work under the control and management of the Government of Canada, or arising out of or connected with the execution or fulfilment, or on account of deductions made for non-execution or non-fulfilment, of any contract entered into with the Head of any Department of the Government of Canada, either in the name of Her Majesty or in any other manner whatsoever,—such person or body corporate, may give notice in writing of such claim to the Secretary of State of Canada, stating the particulars thereof, and how the same has arisen; which notice the Secretary of State shall refer to the Head of the Department with respect to which the claim has so arisen, who shall then have, with respect to such claim, power to tender satisfaction, and if it be not accepted, to refer the claim to one or more of the Official Arbitrators appointed under the said Act, and the said Official Arbitrators shall then have power to hear and award upon such claim—and all the provisions of the said Act with respect to cases referred to arbitration, and to the powers of the Arbitrators, and proceedings by or before them, shall apply to such claim, to the Head of the Department concerned, and to the said Official Arbitrators, respectively, in so far as they may not be inconsistent with this Act.

Certain claims may be referred to the official arbitrators appointed under the Public Works Act 31 Vict. c. 12.

2. Provided always that no claim shall be submitted to Arbitration, or entertained under this Act, unless it be made within three months after the passing thereof, or within six months after the occurrence of the accident, or the doing or not doing of the act upon which the claim is founded; nor shall anything herein contained be construed as making it imperative on the Government to entertain any claim under this Act, but the said Head of the Department concerned shall refer to Arbitration such claims only as he may be instructed so to refer by the Governor in Council.

Limitation of time for submitting claims. Reference not to be obligatory.

35 VICT. CAP. 24.

An Act to remove doubts under the Act respecting the Public Works of Canada.

[Assented to 14th June, 1872.]

Preamble.
31 Vict. c. 12.

FOR the removal of doubts under the Act passed in the thirty-first year of Her Majesty's Reign, and intituled "*An Act respecting the Public Works of Canada*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

Certain works declared to be within the said Act, and under control of Minister of Public Works.

1. Every canal, lock, dam, hydraulic work, harbour, pier, public building, or other work or property of the nature of any of those mentioned in the tenth section of the Act cited in the preamble to this Act, acquired or to be acquired, constructed or to be constructed, extended, enlarged, repaired or improved, at the expense of the Dominion of Canada, or for the acquisition, construction, repairing, extending, enlarging or improving of which any public money has been or shall be hereafter voted and appropriated by Parliament, and every work required for any such purpose, is and shall be a public work under the control and management of the Minister of Public Works, and all the enactments and provisions of the said Act and of any Act amending it, do and shall apply to every such work as aforesaid, and all the powers, privileges and duties thereby vested in or assigned to the Minister of Public Works, may be exercised by the said Minister in relation to any and every such work or property, subject always to the exceptions made in the said tenth section of the said Act, and without prejudice to the power of the Governor, by proclamation under the eleventh section of the said Act, to declare any work to be under the control and management of the said Minister; provided that this Act shall not apply to any work for which money has been appropriated as a subsidy only.

Proviso :

37 VICT. CAP. 13.

An Act to amend an Act respecting the Public Works of Canada.

[Assented to 26th May, 1874.]

Preamble.
31 V. c. 12.

IN amendment of an Act passed in the thirty-first year of Her Majesty's Reign, intituled "*An Act respecting the Public*

Works of Canada," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The compensation money agreed upon or awarded by the official arbitrators for any lands or property acquired or taken by the Minister of Public Works, and which may under the said Act be taken by the said Minister without the consent of the proprietor, shall stand in the stead of such lands or property; and any claim to or incumbrance upon such lands or property shall, as respects the Crown, be converted into a claim to such compensation money or to a proportionate amount thereof, and shall be void as respects the lands or property themselves, which shall, by the fact of the taking possession thereof under the said Act, become and be absolutely vested in the Crown, as shall also any lands or property taken possession of by the Crown under the said Act, whether there be or be not any conveyance, agreement or award respecting the same,—subject always to the determination of the compensation to be paid, and to the payment thereof when such conveyance, agreement or award shall have been made.

Compensation to stand in the place of land taken without consent of owner, as to all charges thereon.

All lands taken under the said Act, vested in the Crown.

Proviso.

2. If the party conveying such lands or property could not without the said Act, have conveyed the same or agreed for the compensation to be paid therefor, or if any owner or party to whom the compensation money or any part thereof is payable, refuses to execute the proper conveyance or other requisite instrument of transfer of the premises, or if the party entitled to claim the same cannot be found or is unknown to the Minister, or if the Minister has reason to fear any claim or incumbrance, or if for any other reason he deems it advisable,—then if the lands or property so acquired or taken are situate in any of the Provinces of Canada, other than Quebec, the Minister may pay such compensation money or award, or if there has been no compensation money agreed upon or amount awarded, then such sum of money as in the opinion of the Minister shall be sufficient compensation for such lands or property into the office of one of the superior courts for the Province in which the lands are situate (with the interest thereon for six months), and may deliver to the clerk of the court a copy of the conveyance or of the agreement or award, if there be no conveyance certified by the Minister, and if there be neither conveyance nor award may deliver to the said clerk a notice specifying the lands or property so acquired or taken.

Compensation may be paid into court in certain cases.

If the lands be in any other Province than Quebec.

If no compensation has been determined.

2. A notice in such form and for such time as the court may appoint, shall be inserted by the clerk in some newspaper, if there be any, published in the district or county in which the lands are situate, which shall state that the title of the Crown, that is, the conveyance, agreement or award, or if there be none such, then the notice of the Minister to the clerk of the court as hereinbefore provided is under the said Act, and shall call upon all persons entitled to the lands or to any part thereof, or

Notice to parties interested.

Court to distribute the compensation money.

representing or being the husbands of any parties so entitled, or claiming to hold or represent incumbrances thereon or interests therein, to file their claims to the compensation or any part thereof; and all such claims shall be received and adjudged upon by the court, and the said proceedings shall for ever bar all claims to the compensation or any part thereof, including any claim in respect of dower, as well as in respect of all mortgages or incumbrances upon the same; and the court shall make such order for the distribution, payment or investment of the compensation and for the securing of the rights of all parties interested as to right and justice and according to the provisions of this Act and to law shall appertain.

3. This sub-section relates to Quebec only.

As to costs of such proceedings.

4. The costs of the proceedings or any part thereof shall be paid by the Minister or by any other party as the court may order, and if the order of distribution be obtained in less than six months from the payment of the compensation into the court or to the prothonotary, the court shall direct a proportionate part of the interest to be returned to the Minister; and if from any error, fault or neglect of the Minister, it is not obtained until after the six months have expired, the court shall order the Minister to pay into court or to the prothonotary the interest for such further period as may be right.

Proviso: if compensation does not exceed \$100.

5. Provided always, that in any case where the price or compensation money agreed for or awarded does not exceed one hundred dollars, it may, in any Province, be paid to the party who under the Act hereby amended can lawfully convey the lands or property or agree for the compensation to be made in the case, with the same effect as if it had been paid into court under this Act; saving always the rights of any other party to such compensation money as against the party receiving the same.

Proviso: for arbitration if any party entitled is dissatisfied with amount paid into court.

6. If any party entitled to any compensation as aforesaid is dissatisfied with the amount so paid by the Minister into a court or to the prothonotary of a court as aforesaid, the question of the amount of compensation may be referred to the Board of Arbitrators or to one or any greater number of Arbitrators as he may see fit, and proceedings thereon shall be had according to this Act, and the Minister may pay the amount of any award thereon into a court or to the prothonotary of a court as the case may be, and the court shall make such order as to the same as if it had been paid in as compensation as hereinbefore mentioned.

Interpretation clause.
"Conveyance."

3. The term "conveyance" in this Act includes a "surrender" to the Crown, and any conveyance to the Crown or to the Minister of Public Works, or any officer of that Department, in trust for or to the use of the Crown, shall be held to be a surrender; and no surrender, conveyance, agreement or award under the said

Act or this Act shall require registration or enrolment to preserve the rights of the Crown under it, but may be registered in the Registry Office of Deeds for the place where the lands lie, if the Minister of Public Works deems it advisable.

2. The expression "lands and property" includes real rights, easements, servitudes and damages, and all other things for which compensation is to be paid by the Crown under the said Act. "Lands and Property."

4. So much of the twenty-sixth section of the said Act as requires that the compensation in any case therein referred to shall be paid within six months after it has been agreed on, appraised or awarded, shall not apply to any case where such compensation is paid into Court under this Act, except that such payment into Court shall be made within the said time; and all the foregoing provisions of this Act shall apply to any lands or property taken, or the compensation for which was agreed upon or awarded, before the passing of this Act, but in such last-mentioned case the compensation if paid into Court shall be so paid within six months after the passing of this Act. Section 26 of 31 V. c. 12. amended.
Proviso.

33 VICT. CAP. 24.

An Act respecting certain Works on the Ottawa River.

[Assented to 12th May, 1870.]

WHEREAS, by the ninety-first section of the British North America Act, 1867, it is in effect enacted, that the exclusive legislative authority of the Parliament of Canada extends (among other subjects) to all matters relating to navigation and shipping,—and to such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by the said Act assigned exclusively to the legislatures of the Provinces,—and by the ninety-second section of the said Act, such works as, although wholly situate within any Province, are, before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the Provinces, are expressly excepted in the enumeration of the classes of subjects by the said Act assigned exclusively to the legislatures of the Provinces;—And whereas, the Ottawa River is a navigable river, and is in fact navigated throughout its whole course, and such works thereon as may be important to the navigation of the said river are for the general advantage of Canada and ought to be subject to the control and direction of Preamble.

the Government of the Dominion ; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Navigation of the River Ottawa to be subject to the exclusive authority of Parliament, with all works connected with the same, or in or on the waters of the River, and under the control of the Department of Public Works.

1. The navigation of the River Ottawa, as well by vessels and boats as by rafts and cribs of timber or logs, is hereby declared to be subject to the exclusive legislative authority of the Parliament of Canada, and all canals or other cuttings for facilitating such navigation, and all dams, slides, piers, booms, embankments, and other works of what kind or nature soever in the channel or waters of the said River, or in which the waters of the said River are used, and in whatever Province situate, and whether constructed or to be constructed, and whether constructed by the Government of Canada or by the Government of the late Province of Canada, or by the Government of Upper or of Lower Canada, or by any private party by the consent and authority of any of the said Governments, which shall from time to time be recognised by the Governor in Council, on the report of the Minister of Public Works as being, or as having been, constructed for any purpose of public utility, shall be held to be works for the general advantage of Canada, and, with all works of like character, no matter by whom constructed and whether recognised as being for the general advantage or not, situate in or on the waters of the said River, shall be subject to the exclusive legislative authority of the Parliament of Canada, and shall be under the control and management of the Department of Public Works, and subject to the provisions of the Act intituled "An Act respecting the Public Works of Canada."

35 VICT. CAP. 25.

An Act respecting Bridges.

[Assented to 14th June, 1872.]

Preamble.

WHEREAS it is expedient to extend to the inspection of Bridges, provisions similar in effect to those contained in "*The Railway Act, 1868*," as to inspection of Railways :— Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Duties and powers of Railway Committee.

1. The Railway Committee of the Privy Council, constituted by the twenty-third section of "*The Railway Act, 1868*," shall have the powers and perform the duties assigned to them by this Act.

Interpretation. "Bridge."

2. This Act shall extend to, and the word "Bridge" herein shall mean and include any bridge or bridges, and the approaches

thereof, and the appliances or works appurtenant thereto, built or constructed (whether before or after the passing of this Act) by any company incorporated under the authority of, or being within the jurisdiction of the Parliament of Canada, and not being a Railway Company or subject to the control of the Railway Committee of the Privy Council, under "*The Railway Act*," 1868," and the words "Railway Committee" mean the Railway Committee of the Privy Council.

3. No bridge shall be opened for public use until one month after notice in writing of the intention to open the same has been given by the company to whom the bridge belongs, to the Railway Committee of the Privy Council, nor until ten days after notice in writing has been given by the company to the said Railway Committee, of the time when the bridge will, in the opinion of the company, be sufficiently completed for the use thereof with safety, and ready for inspection.

Notice to be given before bridge is opened.

4. If any bridge be opened without such notice, the company to whom the bridge belongs shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open until the notices have been duly given and have expired.

Penalty for default.

5. The Railway Committee, upon receiving such notification, shall direct one or more of the engineers attached to or employed by the Department of Public Works, to examine the bridge proposed to be opened, and if the inspecting engineer or engineers report in writing to the Railway Committee, that in his or their opinion the opening of the same would be attended with danger to the public using the same, by reason of incompleteness or insufficiency of the bridge, together with the ground of such opinion, the Railway Committee, with the sanction of the Governor in Council (and so from time to time as often as such engineer or engineers after further inspection thereof so report), may order the company to whom the bridge belongs to postpone such opening for a period not exceeding one month at any one time, until it appears to the Committee that such opening may take place without danger to the public.

Proceedings on receipt of such notice.

If the bridge be reported unsafe.

6. If any bridge be opened contrary to such order of the Railway Committee, the company to whom the bridge belongs shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open contrary to such order.

Penalty if bridge is opened contrary to order.

7. No such order shall be binding upon any bridge company unless therewith is delivered to the company a copy of the report of the inspecting engineer or engineers on which the order is founded.

Copy of report to accompany order.

8. The Railway Committee, whenever they receive information to the effect that any bridge is dangerous to the public

Railway Committee

may order inspection of any bridge reported unsafe.

And may direct changes or repairs to be made.

using the same, through want of repair, insufficiency or erroneous construction, or from any other cause, or whenever circumstances arise which, in their opinion, render it expedient, may direct any such engineer or engineers as aforesaid to examine and inspect the bridge, and upon the report of the engineer or engineers may condemn the bridge or any portion thereof, or any of the works or appliances connected therewith, and with the approval of the Governor in Council may require any change or alteration therein, or in any part thereof, or the substitution of a new bridge or of any portion thereof, or the use of any materials for any part of the said bridge; and thereupon the company to which such bridge belongs, or the company using or controlling the same, shall, after notice thereof in writing signed by the chairman of the Railway Committee, and countersigned by the secretary thereof, proceed to make good or remedy the defects in the bridge or portions of the bridge which have been reported as insufficient, or shall make the change, alteration or substitution required as aforesaid by the Committee.

Engineer may order use of bridge to cease.

9. If in the opinion of the inspecting engineer it is dangerous for railway trains (if the bridge be intended for the passage of such trains) or vehicles, or passengers to pass over any bridge until alterations, substitutions or repairs have been made therein, the said engineer may forthwith forbid the running of any railway train or vehicle (as the case may be) or the passage of any passenger over such bridge, by delivering or causing to be delivered to the President, Managing Director, or Secretary or Superintendent of the company owning, using or controlling such bridge, a notice in writing to that effect, and his reasons therefor, in which he shall distinctly point out the defects or the nature of the danger to be apprehended.

Engineer to report to Railway Committee.

10. The inspecting engineer shall forthwith report the same to the Railway Committee, who, with the sanction of the Governor in Council, may either confirm, modify or disallow the act or order of the inspecting engineer, and such confirmation, modification or disallowance shall be duly notified to the bridge company affected thereby.

Authority to Engineer to examine bridge.

11. Any engineer or engineers so appointed as authorized to inspect any bridge, may, at all reasonable times, upon producing his or their authority if required, enter upon and examine such bridge.

Company to furnish information

12. Every bridge company and the Officers and Directors thereof shall afford to the inspecting engineer or engineers such information as may be within their knowledge and power in all matters enquired into by him or them, and shall submit to such inspecting engineer or engineers all contracts, plans, specifications, drawings and documents relating to the construction, repair or state of repair of such bridge.

13. The authority of any such inspecting engineer or engineers shall be sufficiently evidenced by instructions in writing signed by the Chairman of the Railway Committee, and countersigned by the Secretary thereof.

Authority of engineers, how evidenced.

14. No inspection had under this Act, nor anything in this Act contained, or done or ordered or omitted to be done or ordered, under or by virtue of the provisions of this Act, shall relieve or be construed to relieve any bridge company of or from any liability or responsibility resting upon it by law, either towards Her Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or other personal representative of any person for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance or non-feasance, of such company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such company under the laws in force in the Province in which such liability or responsibility arises.

Inspection not to relieve company from liability.

15. All orders of the Railway Committee shall be considered as sufficiently made known to the bridge company by a notice thereof signed by the Chairman and countersigned by the Secretary of the Committee, and delivered to the President, Vice-President, Managing Director, Secretary or Superintendent of the company, or at the office of the company, and orders of the inspecting engineer or engineers shall be deemed to be made known to the bridge company by a notice thereof signed by the engineer or engineers, and delivered as above mentioned.

Orders of Railway Committee, how notified.

16. Every bridge company shall, as soon as possible, and within at least forty-eight hours after the recurrence upon the bridge belonging to such company of any accident attended with serious personal injury to any person using the same, or whereby their bridge has been broken or so damaged as to render the bridge impassable or unsafe or unfit for immediate use, give notice thereof to the Railway Committee, and if any company wilfully omits to give such notice, such company shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the omission to give the same continues.

Company to report accidents.

17. Every bridge company shall, within one month after the first days of January and July in each and every year, make to the Railway Committee, under the oath of the President, Secretary or Superintendent of the company, a true and particular return of all accidents and casualties (whether to life or property) which have occurred on the bridge of the company during the half year next preceding each of the said periods respectively, setting forth

Return of accidents to be made twice a year.

1. The causes and natures of such accidents and casualties;

2. Whether they occurred by night or by day ;

3. The full extent thereof, and all the particulars of the same ; and,

4. Shall also at the same time return a true copy of the existing by-laws of the company, and of their rules and regulations for the management of the company and of their bridge.

Railway Committee may prescribe form of return.

18. The Railway Committee may order and direct, from time to time, the form in which such returns shall be made up, and may order and direct any bridge company to make up and deliver to them from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the bridge belonging to such company, whether attended with personal injury or not, in such form and manner as the Committee deem necessary and require for their information, with a view to the public safety.

Penalty if company makes default.

19. If such returns so verified be not delivered within the respective times herein prescribed, or within fourteen days after the same have been so required by the Committee, every company making default shall forfeit to Her Majesty the sum of one hundred dollars for every day during which the company neglects to deliver the same.

Returns privileged.

20. All such returns shall be privileged communications, and shall not be evidence in any Court whatsoever.

7. DEPARTMENT OF THE INTERIOR.

36 VICT. CAP. 4.

An Act to provide for the establishment of "*The Department of the Interior.*"

[Assented to 3rd May, 1873.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Department of the Interior.

1. There shall be a Department of the Civil Service of Canada to be called the "Department of the Interior," over which the

Minister of the Interior, for the time being, appointed by the Governor General, by Commission under the Great Seal of Canada, shall preside; and he shall hold office during pleasure, and shall have the management of the Department of the Interior.

2. The Minister of the Interior shall have the control and management of the affairs of the North West Territories.

Minister to manage the North West Territories.

3. The Minister of the Interior shall be the Superintendent General of Indian affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada.

The Indians in Canada.

4. The Minister of the Interior shall have the control and management of all Crown Lands being the property of the Dominion, including those known as Ordnance and Admiralty Lands, and all other public lands not specially under the control of the Public Works Department, or of that of Militia and Defence (and excepting also Marine Hospitals and Light Houses and land connected therewith, and St. Paul's, Sable and Portage Islands), and he is hereby substituted for the former Commissioner of Crown Lands, as regards Ordnance and Admiralty Lands transferred to the late Province of Canada, and lying in Ontario and Quebec.

The Ordnance and other Public Lands.

Exception.

Substituted for former Commissioner,

5. The Minister of the Interior is hereby substituted for the Secretary of State of Canada in all the powers, attributes, functions, restrictions and duties laid down and prescribed in the "*Dominion Lands Act*, 1872;" and wherever the words "Secretary of State" are used in that Act, the words "Minister of the Interior" shall be deemed to be substituted therefor; and wherever the words "Department of the Secretary of State" are used, the words "Department of the Interior" shall be deemed to be substituted therefor; and all the provisions of the said Act shall be and continue obligatory upon the Minister of the Interior; and all the officers appointed under the said Act shall become and continue to be officers of the Department of the Interior.

And for the Secretary of State of Canada in the cases named.

6. The Governor may appoint, and at his pleasure remove, a "Deputy of the Minister of the Interior," who shall be charged, under the Minister of the Interior, with the performance of the Departmental duties of the Minister of the Interior, and with the control and management of the Officers, Agents, Clerks and Servants of the Department, and with such other powers and duties as may be assigned to him by the Minister of the Interior; and the fourteenth section of "*The Canada Civil Service Act*, 1868," shall apply to the Deputy of the Minister of the Interior, as if the Department of the Interior were mentioned in schedule A to that Act; and the words "Deputy of the Minister of the Interior" shall be deemed to be substituted for the words "Under Secretary of State for the Provinces" in that Schedule.

Deputy of the Minister of the Interior.

His duties.

Application of 31 Vict. c. 34, to such Deputy.

Departmental
and other
officers may be
appointed.

7. The Governor may also appoint, subject to the "*Civil Service Act*, 1868," and at his pleasure remove such Departmental Officers, agents, clerks and servants as may be requisite for the proper conduct of the business of the Department at Ottawa, and also such agents, officers, clerks and servants as may be necessary for the same purpose in the North West Territories, and amongst the Indians, and elsewhere in the Dominion.

Former Act
to remain in
force and
apply.

8. The several clauses of chapter forty-two of the Statutes passed in the thirty-first year of Her Majesty's reign, entitled "*An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*," relating to the management of Indian affairs and lands, and of Ordnance lands, shall govern the Minister of the Interior in the several matters to which they relate; and wherever the words "Secretary of State" or "Department of the Secretary of State" occur in those clauses, the words "Minister of the Interior" and "Department of the Interior" shall be deemed to be substituted therefor.

Subject to the
substitution of
certain words.

Indians may
be exempted
from the oper-
ation of this
Act.

9. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Act, and of the said Act, chapter forty-two of the Statutes passed in the thirty-first year of Her Majesty's reign, or of any one or more of the clauses thereof, the Indians, or any tribe of them, or the Indian Lands, or any portion of them, in the North West Territories, or in the Province of Manitoba, or in the Province of British Columbia, and may again, by like proclamation, from time to time, remove such exemption.

Geological
Survey.

10. The Geological Survey of Canada as now existing shall be attached to the Department of the Interior.

Yearly report
to Parliament.

11. The Minister of the Interior shall annually lay before Parliament, within fifteen days after the meeting thereof, a report of the proceedings, transactions and affairs of the Department during the year then next preceding.

Secretary of
State of Can-
ada to have
charge of State
correspond-
ence.

12. The Secretary of State of Canada shall have charge of the State Correspondence with the Governments of the several Provinces included, or which may be hereafter included, within the Dominion of Canada.

Other duties of
Secretary of
State for
Canada.

13. The remaining duties hitherto discharged by the Secretary of State for the Provinces, as regards matters other than those relating to the subjects by this Act transferred to the Department of the Interior, shall devolve upon and be discharged by the Secretary of State of Canada, to whom also is transferred the duty of supplying the stationery required by the several Departments of the Government, and the charge of that branch of the public service; and the Queen's Printer shall be held to be an officer of this Department.

Stationery
Department.

Queen's
Printer.

14. The Office of Secretary of State for the Provinces is and stands abolished. Certain office abolished.

15. This Act shall only come into force after the expiration of one month from the publication in the *Canada Gazette* of a Proclamation to that effect under an order of the Governor in Council. When this Act shall come in force.

16. So much of any Act or law as may be inconsistent with this Act, or as makes any provision in any matter provided for by this Act, other than such as is hereby made, is repealed, excepting as to things done, obligations contracted or penalties incurred before the coming into force of this Act. Repeal of inconsistent enactments.

C. S. CAN. CAP. 23.

An Act respecting the sale and management of Timber on Public Lands.*

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

LICENSES TO CUT TIMBER ON PUBLIC LANDS.

1. The Commissioner of Crown Lands, or any officer or agent under him authorized to that effect, may grant licenses to cut Timber on the ungranted Lands of the Crown, at such rates, and subject to such conditions, regulations and restrictions as may from time to time be established by the Governor in Council, and of which notice shall be given in the *Canada Gazette* : Commissioner of Crown Lands may grant licenses to cut timber on public lands.

2. No license shall be so granted for a longer period than twelve months from the date thereof ; and if, in consequence of any incorrectness of survey or other error, or cause whatsoever, a license is found to comprise lands included in a license of a prior date, the license last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the license so rendered void shall have no claim upon the Government for indemnity or compensation by reason of such avoidance. Period of license. As to interfering licenses.

3. The said licenses shall describe the lands upon which the Timber may be cut, and shall confer for the time being on the nominee, the right to take and keep exclusive possession of the lands so described, subject to such regulations and restrictions Form of license and its legal effect.

* By 36 V. c. 4, sec. 4, page 545, ante the control and management of all Crown Lands, being the property of the Dominion, is assigned to the Minister of the Interior.

as may be established;—And such licenses shall vest in the holders thereof all rights of property whatsoever in all trees, timber and lumber cut within the limits of the license during the term thereof, whether such trees, timber and lumber are cut by authority of the holder of such license, or by any other person, with or without his consent;—And such licenses shall entitle the holders thereof to seize in revendication or otherwise, such trees, timber or lumber where the same are found in the possession of any unauthorized person, and also to institute any action or suit at law or equity against any wrongful possessor or trespassers, and to prosecute all trespassers and other offenders to punishment, and to recover damages if any:—And all proceedings pending at the expiration of any such license may be continued to final termination as if the license had not expired.

Proceedings
pending when
the license
expires.

OBLIGATIONS OF PARTIES OBTAINING LICENSES.

Return to be
made by per-
sons obtaining
licenses.

3. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Commissioner of Crown Lands, a return of the number and kinds of trees cut, and of the quantity and description of saw logs, or of the number and description of sticks of square timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman, before a Justice of the Peace; And any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly.

To be attested
on oath.

Timber liable
to payment of
dues may be
followed until
they are paid.

4. All timber cut under licenses shall be liable for the payment of the Crown dues thereon, so long as and wheresoever the said timber or any part of it may be found, whether in the original logs or manufactured into deals, boards or other stuff;—and all officers or agents entrusted with the collection of such dues may follow all such timber and seize and detain the same wherever it is found until the dues are paid or secured.

The giving of
bonds or notes
not to affect
the lien on the
timber.

5. Bonds or promissory notes taken for the Crown dues, either before or after the cutting of the timber, as collateral security or to facilitate collection, shall not in any way affect the lien of the Crown on the timber, but the lien shall subsist until the said dues are actually discharged.

Sale of timber
seized for non-
payment of
dues.

6. If any timber so seized and detained for non-payment of Crown dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid,—then the Commissioner of Crown Lands, with the previous special sanction of the Governor in Council, may order a sale of the said timber to be made after sufficient notice,—and the balance of the proceeds of such

sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber.

LIABILITY OF PERSONS CUTTING WITHOUT LICENSE.

7. If any person without authority cuts or employs or induces any other person to cut, or assists in cutting any timber of any kind on any of the Crown, Clergy, School or other Public Lands, or removes or carries away or employs or induces or assists any other person to remove or carry away any Merchantable timber of any kind so cut from any of the Public Lands aforesaid, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market,—and when the timber or saw-logs made has or have been removed out of the reach of the Officers of the Crown Lands Department, or it is otherwise found impossible to seize the same, he shall, in addition to the loss of his labour and disbursements, forfeit a sum of three dollars for each tree, (rafting stuff excepted,) which he is proved to have cut or caused to be cut or carried away,—and such sum shall be recoverable with costs, at the suit and in the name of the Commissioner of Crown Lands or resident agent, in any Court having jurisdiction in civil matters to the amount of the penalty;—And in all such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary.

Penalty on persons cutting timber without license, &c.

If the timber has been removed, &c.

Party accused must prove the granting of license.

8. Whenever satisfactory information, supported by affidavit made before a Justice of the Peace or before any other competent party, is received by the Commissioner of Crown Lands or any other officer or agent of the Crown Lands Department, that any timber or quantity of timber has been cut without authority on Crown, Clergy, School or other Public Lands, and describing where the said timber can be found, the said Commissioner, officer or agent, or any one of them, may seize or cause to be seized, in Her Majesty's name, the timber so reported to be cut without authority, wherever it is found, and place the same under proper custody, until a decision can be had in the matter from competent authority;

Timber alleged to be unlawfully cut may be seized on a sufficient affidavit, &c.

2. And where the timber so reported to have been cut without authority on the Public Lands, has been made up with other timber into a crib, dram or raft, or in any other manner has been so mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on Public Lands without license, from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority on Public Lands, and shall be liable to seizure and forfeiture accordingly until satisfactorily separated by the holder.

As to timber so cut and mixed up with other timber.

RESISTING SEIZURE—REMOVING TIMBER SEIZED—CONDEMNATION OF SUCH TIMBER, &C.

Seizing Officer may command assistance.

Violent resistance to be felony.

9. Any officer or person seizing timber, in the discharge of his duty under this Act, may in the name of the Crown call in any assistance necessary for securing and protecting the timber so seized;—And if any person under any pretence, either by assault, force or violence, or by threat of such assault, force or violence, in any way resists or obstructs any officer or person acting in his aid, in the discharge of his duty under this Act, such person, being convicted, shall be adjudged guilty of felony and shall be punishable accordingly.

Carrying away timber under seizure to be deemed a stealing thereof.

10. If any person, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken and carried away, without permission of the officer or person who seized the same, or of some competent authority, any timber seized and detained as subject to forfeiture under this Act, before the same has been declared by competent authority to have been seized without due cause, such person shall be deemed to have stolen such timber being the property of the Crown, and to be guilty of felony and liable to punishment accordingly;

Burden of proof that dues have been paid, on whom to lie.

2. And whenever any timber is seized for non-payment of Crown dues or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid on such timber, or whether the said timber was cut on other than any of the public lands aforesaid, the burden of proving payment, or on what land the said timber was cut, shall lie on the owner or claimant of such timber, and not on the officer who seizes the same or the party bringing such prosecution.

Timber seized to be condemned, if not claimed within a certain time.

11. All timber seized under this Act shall be deemed to be condemned, unless the person from whom it was seized or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Crown Lands Office, that he claims or intends to claim the same; failing such notice, the officer or agent seizing shall report the circumstances to the Commissioner of Crown Lands, who may order the sale of the said timber by the said officer or agent, after a notice on the spot, of at least thirty days;

Judge may order timber to be delivered on security being given.

2. And any Judge, having competent jurisdiction, may, whenever he deems it proper, try and determine such seizures and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the said agent, to pay double the value in case of condemnation,—and such bond shall be taken in the name of the Commissioner of Crown Lands, to Her

Majesty's use, and shall be delivered up to and kept by the Commissioner,—and if such seized timber is condemned, the value thereof shall be forthwith paid to the Commissioner of Crown Lands, or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered.

12. Every person availing himself of any false statement or oath to evade the payment of Crown dues, shall forfeit the timber on which dues are attempted to be evaded. Forfeiture of timber in case of fraud.

13. Every person maliciously cutting or loosening any Boom, or breaking up or cutting loose any Raft or Crib, shall be guilty of a misdemeanour, punishable by fine, and imprisonment of not less than six months. Maliciously cutting booms, &c., to be a misdemeanour

14. Nothing in this Act shall in any way invalidate or affect licenses granted before the thirtieth day of May, 1849, or any obligation then contracted for payment of Crown dues under such licenses, or invalidate the lien of the Crown on any timber cut upon Public Lands, within the limits of the Province on that day, and upon which the dues theretofore exacted have not been paid, notwithstanding any bond or promissory note taken for the amount of such dues. Existing licenses or liens, saved.

C. S. CAN. CAP. 26.

An Act respecting the Public School Lands and Fund for Education.

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. The Commissioner of Crown Lands, having, under the provisions of the Act 12 V. c. 200, and under the direction of the Governor in Council, set apart and appropriated one million of acres of Public Lands for Common School purposes, and portions thereof having been disposed of under the said authority, the remainder shall be disposed of by the Commissioner, on such terms and conditions as may by the Governor in Council be approved, and the money arising from the sale or disposal of any portion of the said lands shall remain or be invested and applied towards creating a capital sum sufficient at the rate of six per cent. per annum interest to produce a clear sum of four hundred thousand dollars per annum, and such capital and the income therefrom shall form the Common School Fund : But before any appropriation of the moneys Appropriation of one million acres for Common School Fund. Certain charges to be first paid

arising from the sale of such Lands shall be made, all charges thereon for the management or sale thereof, and all Indian annuities charged upon such lands or moneys, shall be first paid.

Moneys arising from the sale of lands, &c., to form part of said Common School Fund.

2. All moneys arising after the twenty-seventh day of May, one thousand eight hundred and fifty, from the sale of any Public Lands of the Province, shall remain or be set apart as part of the Capital of the said Common School Fund until the same is sufficient at the rate aforesaid to produce the said sum of four hundred thousand dollars per annum.

The said Fund to be invested in Provincial Debentures, &c., for the purpose of creating an annual income.

3. For the purpose of creating such Annual Income, the Capital of the said Fund shall from time to time remain or be invested in the Public Debentures of this Province, or in the Debentures of any Public Company or Companies in the Province, incorporated by Act of the Legislature for the construction of Works of a public nature, and which having subscribed their whole Capital Stock, have paid up one half of such Stock and completed one half of such Work or Works ;

Fund and income not to be alienated for any other purpose.

2. And the said Fund and the Income thereof shall not be alienated for any other purpose whatever, but shall remain a perpetual Fund for the support of Common Schools, and the establishment of Township and Parish Libraries.

Grant in aid of the said Fund.

4. For the establishment, support and maintenance of Common Schools in this Province, until the said Common School Fund produces a net yearly income of two hundred thousand dollars or upwards, there shall be granted to Her Majesty, yearly, the sum of two hundred thousand dollars, and such sum shall be composed and made up of the annual income and revenue derived from the permanent fund hereinbefore mentioned, and of such further sum as may be required to complete the same, out of any unappropriated moneys raised and levied by the authority of the Legislature, for the public uses of this Province ; and the said annual grant shall constitute the Common School Fund.

Annual Common School Fund.

Such grant to be apportioned between U. C. and L. C.

5. The said sum of two hundred thousand dollars annually shall, from year to year, be apportioned by order of the Governor of this Province, in Council, between Upper and Lower Canada, in proportion to the relative numbers of the population of the same respectively, as such numbers shall, from time to time, be ascertained by the census next before taken in each of the said divisions, respectively.

Grant out of the Provincial Revenue to cease after a certain time.

6. So soon as a net Annual Income of two hundred thousand dollars shall be realized from the said Permanent Fund, the said grant out of the Provincial Revenue shall cease, and in the meantime the interest arising from the said Permanent School Fund shall be annually paid over to the Receiver-General, and applied towards the payment of the yearly grant of two hundred

thousand dollars ; But if in any year after the said annual sum of two hundred thousand dollars is taken off the Consolidated Revenue, the income arising from the said Permanent Fund from any cause whatever falls short of the annual sum of two hundred thousand dollars, then the Receiver-General of the Province shall pay out of the said Consolidated Revenue such sums of money as are from time to time required to make up the deficiency, but such sums shall be repaid out of any excess of the Income of the said Permanent School Fund in any year over the said sum of two hundred thousand dollars per annum.

Grant to make up deficiency in any year.

7. The Governor in Council may reserve out of the proceeds of the School Lands in any County, a sum not exceeding one-fourth of such proceeds, and out of the proceeds of unappropriated Crown Lands in any County a sum not exceeding one-fifth thereof, such sums to be funds for public improvements within the County, and to be expended under the direction of the Governor in Council ;

A certain sum may be reserved out of the proceeds of school lands for public improvements in the county.

2. The particulars of all such sums and of the expenditure thereof shall be laid before Parliament within the first ten days of each session ; and not exceeding six per cent. on the amount collected, including surveys, shall be charged for the sale and management of lands forming part of the One Million of Acres of Land set apart in the Huron Tract for the Common School Fund.

Accounts to be laid before Parliament. Percentage of charges limited.

35 VICT. CAP. 22.

An Act to make provision for the continuation and extension of the Geological Survey of Canada, and for the maintenance of the Geological Museum.*

[Assented to 14th June, 1872.]

WHEREAS the period for which an appropriation is made by the Act passed in the thirty-first year of Her Majesty's Reign, Chapter sixty-seven, for the Geological Survey of Canada, will expire on the thirtieth day of June, in the present year one thousand eight hundred and seventy-two, and it is expedient to make such appropriation for a further period, with such increase in amount as the extension of the Dominion requires : Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Preamble.

1. Out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, the sum of forty-five

\$45,000 appropriated yearly

*By 36 V. c. 4, sec. 10, page 546, ante, the Geological Survey of Canada was attached to the Department of the Interior.

for 5 years,
from 1st July,
1872, for the
Survey.

thousand dollars shall be annually applied for the term of five years, from the first day of July, one thousand eight hundred and seventy-two, to defray the expenses of the Geological Survey of Canada during the said term, which sum shall be paid at such times, in such manner, to such persons, and for such purposes relating to the said Geological Survey, as the Governor in Council may from time to time direct, subject to the provisions of the Act respecting the security to be given by officers of Canada (thirty-first Victoria, chapter thirty-seven), which shall continue to apply to the said Geological Survey, as heretofore, and any balance remaining unexpended out of the sum appropriated for any one year, may be applied and expended in the next or any subsequent year, in addition to the sum appropriated for such next or subsequent year.

Act 31 V. c.
37, to apply.

Unexpended
balance in any
year.

Governor to
appoint proper
persons to
make the
Survey, &c.

2. The Governor may employ a suitable number of competent persons to make, continue and complete the Geological Survey of Canada, and to furnish a full and scientific description of its rocks, soils and minerals, which shall be accompanied with proper maps, diagrams and drawings, and a collection of specimens to illustrate the same, and may direct the publication of such maps and drawings as he may deem necessary for that purpose, and the deposit thereof in the Geological Museum, as a collection for the whole Dominion of Canada; and the said Museum shall be open at all reasonable hours to the public, and shall be furnished with such books and instruments as may be necessary for scientific reference and for the prosecution of the Survey, and the Governor may, from time to time, cause the enlargement of the Museum, and the distribution of the publications relative to the Survey, and of duplicate specimens, to Scientific Institutions in Canada and other countries.

Publication of
Maps, and
Geological
Museum.

Certain lati-
tudes, longi-
tudes, and
levels to be
determined
and marked.

3. For the purpose of obtaining an accurate basis from which the Geographical and Topographical features of the country may be ascertained, and for the purpose of connecting together local and partial Surveys, the Director of the Geological Survey shall cause permanent marks in some public buildings, or other marks of a durable description, to be made and maintained at several convenient stations in Canada, and shall fix accurately the latitude and longitude, and the relative levels thereof, as points of reference.

Salaries and
pay.
Proviso.

4. The Governor in Council may, from time to time, fix the salaries and pay of the Director and other officers and persons employed in or about the said Geological Survey: Provided that such salaries shall be subject to the approval of Parliament.

Annual
report.

5. The Director of the Geological Survey shall make and transmit yearly to the Governor, on or before the first day of May, a report, shewing generally the progress made in the Survey.

Repeal.

6. So much of the Act cited in the preamble, as is in any way inconsistent with this Act, is hereby repealed.

C. S. CAN. CAP. 27.

An Act respecting the Geological Survey of the Province.

The following section of C. S. Can. cap. 27, seems still in force. The remainder of the Act was temporary.

3. And further to promote the collection of geological information, all persons who, after the first day of January, 1858, apply to be admitted as Provincial Land Surveyors, shall be examined in the rudiments of Geology;—And the Director of the Geological Survey shall, with that object, be a member of each of the two Boards of Examiners of persons applying to be licensed as Surveyors, constituted by the *Act respecting Land Surveyors and the Survey of Lands*.

Provincial
Land Survey-
ors, to be ex-
amined in
Geology.

31 VICT. CAP. 67.

An Act respecting the Geological Survey of Canada.

[Assented to 22nd May, 1868.]

The following section of this Act seems still in force. The remainder was superseded by 35 V. c. 22, page 553, supra.

4. All Railway and Canal Companies over which the Parliament of Canada has jurisdiction, shall, if incorporated after the passing of this Act, furnish to the Geological Survey, without charge, certified copies of all plans and sections of their Surveys; and all such Companies theretofore incorporated shall furnish such plans and sections upon the demand of the Director of the Geological Survey and at the cost of the same.

Certain Rail-
way Com-
panies to fur-
nish copies of
plans, &c.

C. S. C. CAP. 24.

An Act respecting the Ordnance and Admiralty Lands transferred to the Province.*

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

*As to these lands see 36 V. c. 4, sec. 4, page 545, ante.

Lands to be divided into three classes.

1. The Lands and Property vested immediately before the nineteenth day of June, 1856, in the Principal Officers of Her Majesty's Ordnance, or in the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, and situate in this Province, shall be divided into three classes :

First class.

2. One class, to be denominated A, which shall include all the lands and property included in the first Schedule to this Act annexed, which are and shall be vested in Her Majesty's Principal Secretary of State for the War Department ;

Second class.

3. Another class, to be denominated B, which shall consist of such buildings or portions of the lands or property included in the second Schedule to this Act as may, from time to time, be placed in class B by authority of the Governor in Council, and which shall be retained by the Provincial Government for the defence of the Province ;

Third class.

4. And a third class, to be denominated C, to be made up of the remainder of the lands, buildings and property enumerated in the second Schedule to this Act ; which class C may be sold, leased or otherwise used as to the Governor in Council from time to time seems meet.

Lands, &c., in Schedule 2, vested in Her Majesty for the public uses of the Province.

2. The lands and other real property comprised in the second Schedule to this Act annexed, being a portion of the messuages, lands, tenements, estates and hereditaments formerly vested in the said Principal Officers of Her Majesty's Ordnance, by whatever mode of conveyance the same have been acquired or taken either in fee or for any life or lives, or for any term of years, or any other or lesser interest, and all erections and buildings erected thereon, with the rights, members, easements and appurtenances to the same belonging, shall be and continue absolutely vested in Her Majesty for the purposes of this Province, and shall be subject to the provisions of the Laws relating to Public Lands, and any further provisions which the Legislature may enact in respect thereof, and shall be held, used, conveyed and dealt with accordingly ; but subject nevertheless to all Sales, Agreements, Leases or Agreements for Lease entered into with or by the Principal Officers of Ordnance, or any person empowered by them ; and the Governor in Council may accept the transfer of any other such lands to the Province, on such terms and conditions as he may agree upon with the Imperial Government.

Rights of third parties not to be affected. As to pending suits, &c.

3. Nothing in this Act shall affect the rights of any parties claiming any of the lands, buildings, or other property referred to in the said second Schedule ; and all actions pending on the 19th day of June, 1856, against the said Principal Officers in relation thereto may be proceeded with to final judgment in the name of the said Principal Officers ; and the Attorney-General may appear in any such case on behalf of the Crown, and the

Crown and all other persons shall be bound by the final judgment of the Court in any such suit.

4. Such of the lands in class B, as it is deemed necessary by the Governor in Council and the Officer commanding Her Majesty's Regular Forces in the Province, to occupy for the defence of the Province in time of peace, shall be so occupied by such force as shall be from time to time selected by the Governor in Council, and shall be kept in proper order and repair by the Province; and any portion of the lands so retained for the defence of the Province which it is not deemed necessary to occupy as aforesaid, may be leased or otherwise used as the Governor in Council may think most for the advantage of the Province.

As to lands in class B, which ought to be retained for the defence of the Province.

5. The moneys, arising from the lease or use of any of the lands or property in class B, or from the sale, lease or use of any of the lands or property in class C, shall be paid over to the Receiver-General, and shall form part of the Consolidated Revenue Fund of this Province;—but separate accounts shall be kept thereof, and in any account of the expenses incurred for purposes relative to the Provincial Militia or Police, the said moneys shall be taken into account and credited in deduction of the said expenses.

Application of moneys arising from such lands.

Separate accounts to be kept of them, &c.

6. The Governor in Council may authorize the payment, out of the Consolidated Revenue Fund, of a life annuity not exceeding four pounds sterling per annum, to each pensioner located upon the Ordnance Lands in the second Schedule to this Act, situate at Toronto, London, and Niagara, in consideration of the transfer of the said lands to the Province, and in lieu of all claims of the said pensioners thereon—provided the number of such pensioners do not exceed five hundred.

Life annuities may be granted to pensioners on certain lands in lieu of their claims thereon.

7. The Governor in Council, in consideration of the transfer of the said lands at Penetanguishene, Amherstburg and Fort Erie, may authorize the payment of a like annuity out of the said Fund to each of the Pensioners located thereon, and of such further sum for his actual improvements as he is entitled to according to the conditions of his location, such annuity and sum to be in lieu of all his claims upon such land;—provided the number of such pensioners do not exceed two hundred, and that the sum paid to any such pensioner for improvements do not exceed the amount regulated by such conditions.

The same as to certain other lands.

Allowance for improvements.

8. The said annuities and sums shall be a charge upon the said Consolidated Revenue Fund, and shall be paid and accounted for in like manner as other sums charged thereon.

How paid and accounted for.

THE FIRST SCHEDULE.

MILITARY LANDS to be vested in Her Majesty's Principal Secretary of State for the War Department:

QUEBEC *Certain lands.*

MONTREAL *Certain lands.*

KINGSTON..... } All the Military Works on the east and west of the Harbour and the lands connected with them not named in the Second Schedule.

NIAGARA { Fort Mississagua with its Glacis and other appurtenances.

SOREL..... *Certain lands.*

THE SECOND SCHEDULE.

MILITARY PROPERTIES in Canada transferred to the Provincial Government.

SITUATION.	Approximate Quantity of Land.			Description of Buildings or Military Works.
	A.	R.	P.	
Temiscouata.....	11	2	10	Stockaded Barrack.
Three-Rivers	3	2	9	Barrack and Fuel Yard.
Sorel	45,220	..	..	Seigneurie, Domain and other appurtenances.
Montreal				Old Barracks.—Parcel of Land for <i>tête de pont</i> at Longueuil.—So soon as the conditions set forth in the first Schedule have been complied with.
La Prairie.....	42	1	8	Barracks for Cavalry, Artillery and Infantry.
St. John's	176	..	..	Infantry Barracks and Old Fort.
Isle-aux-Noix and Sorel River	295	..	..	Fort Lennox and Reserve.
Chambly	157	1	22	Old Fort, Barracks for Cavalry, Artillery and Infantry, with Barrack Master's house, &c.
Chateauguay	5	..	1	Blockhouse.
Cascades	9	..	12	Wood Yard, Common and Canal.
Cedars .....	..	2	23	Storehouse and Wharf.
Côteau-du-Lac.....	15	3	39	Fort.
Cornwall	1	..	..	Fuel Yard.
Prescott	74	..	..	Fort Wellington.
Grant's Island, Brockville .....	..	2	32	Blockhouse.
	180	3	4	Lot 23 or Herchmer Farm.
	11	2	10	Gore between lots 23 and 24.
	11	1	31	} Parts of lot 24.
	15	..	..
	6	2	8	} Lots 19, 21 and 22, Place d'Armes.
	..	2	..	
	..	2	16	Lots 23, 24 and 25, do do.
Kingston	4	0	8	Late Commandant's Quarter, and lots 286, 382 and 413.
	3	1	5	Old Tannery.
	44	3	17	Ferguson Property.
	110	..	..	Horse Shoe Island.
	1	..	..	Snake Island.
	100	..	..	Kingston Mills Reserve, &c.

THE SECOND SCHEDULE.—*Continued.*

SITUATION.	Approximate Quantity of Land.			Description of Buildings or Military Works.
	A.	R.	P.	
Cape Vesey, P. Edward County.....	1,260	..	..	Reserve.
Green Point, Bay of Quinte	100	..	..	Do.
Toronto	502	2	1	{ Old Fort, New Barracks. Hospital, Bathurst Street Barracks, Commissariat Quarters, Stores. Guard House and Victoria Square.
Hamilton	178	..	..	Reserve, Burlington Heights.
Short Hills Farm	200	..	..	Lots 5 and 6 Con. Pelham.
Niagara	444	2	4	Reserve, Barracks and Hospital.—All, except Fort Mississagua.
Queenston	130	..	..	Reserve.—All, except that sold to the Purchasers of the Hamilton Estate.
Lyons Creek.....	3	1	..	Reserve.
Chippewa	19	3	27	Barrack and Store.
Navy Island.....	..	..	..	Reserve.
Port Erie	1,000	..	..	Do.—Except that located by enrolled Pensioners.
Port Maitland	426	..	..	Reserve.
Turkey Point	592	..	..	Do.
London	74	..	..	Artillery and Infantry Barracks.
Chatham	11	3	8	Infantry Barrack.
Rond Eau	500	..	..	Reserve.
Amherstburg	523	..	..	{ Fort, Block and Picket Houses.— Except as located by enrolled Pen- sioners.
Boisblanc Island				
Fighting Island	1,200	..	..	Reserve.
Windsor.....	4	..	..	Infantry Barrack.
Port Edward, Sarnia.....	..	..	..	Reserve.—Except land sold to Contrac- tors for the Grand Trunk Railway.
Owen Sound.....	51	..	..	Reserve.
Nottawasaga Bay	66	..	..	Do.
Penetanguishene	5,396	2	15	Reserve and Barracks.—Except that lo- cated by enrolled Pensioners, and under license of occupation to Major Ingall.*
St. Joseph.....	450	..	..	Reserve.
St. Mary's Island	170	..	..	Do.
Rideau and Ottawa Canals .....	..	..	..	City of Ottawa, Barracks, Blockhouses and Adjuncts of the Canals.

* See the next Act.

23 VICT. CAP. 22.

An Act respecting certain Ordnance Land Reserves in Upper Canada.

[Assented to 19th May, 1860.]

Preamble.

19, 20 V. c. 45.
Con. Stat. of
Canada, cap.
24.

WHEREAS, by the Act passed in the Session held in the nineteenth and twentieth years of Her Majesty's Reign, Chaptered forty-five, now forming part of Chapter twenty-four of the Consolidated Statutes of Canada, certain lands referred to in Schedule two of the said Act as Reserves at Fort Erie, Amherstburg and Boisblanc Island, and Penetanguishene, excepting those portions of the said Reserves then located by enrolled pensioners, and that portion at Penetanguishene then under license of occupation to Major Ingall, were vested in Her Majesty for the purposes of the Province; and whereas the said enrolled pensioners have agreed, in lieu of their claims, to take certain portions of the said Reserves respectively, and the same have been set apart for them accordingly, evidenced by Location Tickets under the hand of the Commissioner of Crown Lands, and delivered to the said pensioners respectively entitled thereto, and it hath been agreed to issue Letters Patent under the Great Seal of the Province, granting in fee to the said pensioners, their heirs and assigns respectively, the said last-mentioned portions of land, so soon as the same can be legally issued: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The said lands
vested in the
Crown.

1. Subject to the said agreements with the said enrolled pensioners, the said lands, so excepted in the said Schedule as located by the enrolled pensioners, shall be and are hereby vested in Her Majesty, for the purposes of the Province, as other lands referred to in the sixth section of the said first mentioned Act are vested.

A certain al-
lowance for
road to become
part of the
Prison Farm.

2. That part of the original allowance for road between the first and second Concessions of the Township of Tay, extending from the Southerly angle of the Reformatory Prison Farm, in the second Concession of the said Township, to the water's edge of the Penetanguishene Harbour, shall cease to be an original allowance for road, and shall be and form part of the said Reformatory Prison Farm.

8. MARINE AND FISHERIES.

31 VICT. CAP. 57.

An Act for the organization of the Department of Marine and Fisheries of Canada.

[Assented to 22nd May, 1868.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. There shall be at the seat of Government of Canada, a Public Department to be called the Department of Marine and Fisheries, and the Governor in Council may appoint, by Commission under the Great Seal of Canada, a fit and proper person to manage and direct the said Department, who shall be styled the Minister of Marine and Fisheries, and who shall hold office during pleasure.

Department constituted.

2. The Governor may appoint an Officer to be called the Secretary of the Minister of Marine and Fisheries, and such other Officers as may be necessary for the proper conduct of the business of the said Department, as well at the seat of Government as in other portions of Canada, and may at his pleasure remove them or either of them, and appoint others in their stead.

Secretary of Minister.

By 37 V. c. 23, sec. 1, page 563 post, wherever the word "Secretary" occurs in this Act, the word "Deputy" shall be substituted therefor.

3. The Secretary of the Minister shall have authority (subject always to the Minister and his directions) to oversee and direct the other officers and servants of the Department; he shall have the general control of the business of the Department, and in the absence of the Minister, and during such absence, may suspend from his duties any officer or servant of the Department who refuses or neglects to obey his directions as such Secretary, but such power of suspension shall be exercised by the Minister alone when present.

Powers and duties of Secretary.

See note to Section 2.

In case of
absence of
Secretary.

4. During the illness or absence of the *Secretary*, the Minister may appoint another officer temporarily to discharge the duties of such *Secretary*, who shall for the time be vested with all the powers, and charged with the duties of the said *Secretary*.

See note to Section 2.

What matters
shall be under
the control and
management
of the Depart-
ment; and to
what extent.

5. The duties, powers and functions of the said Department shall extend and apply to the subjects and Boards and other public bodies, officers and other persons, services and properties of the Crown, enumerated in the Schedule to this Act, of which the said Department shall have the control, regulation, management and supervision; so far as the same may be or might be or have been had or exercised by any Public Department under and in accordance with the provisions of Acts of the Parliament of the United Kingdom, or of any Provincial Parliament or Legislature now in force in Canada in relation to such subjects, boards and other public bodies, officers and other persons, services and properties of the Crown, or any of them, or without violating the provisions of any such Act or Acts, save and except such as may vest any such control, regulation, management or supervision in any other Public Department.

SCHEDULE.

The administration of any Laws made or to be made relating to the following subjects—

1. Sea, Coast and Inland Fisheries and the management, regulation and protection thereof, and anything relating thereto;
2. Trinity Houses and Trinity Boards, Pilots and Pilotage, and Decayed Pilots' Funds;
3. Beacons, Buoys, Lights and Light-Houses, and their maintenance;
4. Harbours, Ports, Piers and Wharves, Steamers and Vessels belonging to the Government of Canada, except Ganboats or other Vessels of War;
5. Harbour Commissioners and Harbour Masters;
6. Classification of Vessels, and examination and granting of Certificates of Masters and Mates, and others in the Merchant service;
7. Shipping Masters and Shipping Officers;
8. Inspection of Steamboats and boards of Steamboat inspection;

9. Enquiries into causes of Shipwrecks ;

10. Establishment, regulation and maintenance of Marine and Seamen Hospitals and care of distressed seamen, and generally such matters as refer to the Marine and navigation of Canada.

37 VICT. CAP. 23

An Act to amend "*An Act for the organization of the Department of Marine and Fisheries of Canada.*"

[Assented to 26th May, 1874.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. Wherever the word "Secretary" occurs in the Act passed in the thirty-first year of Her Majesty's reign, intituled "*An Act for the organization of the Department of Marine and Fisheries of Canada,*" the word "Deputy" shall be deemed and taken to be substituted therefor, as if the same had originally formed part of the said Act at the time of the passing thereof.

2. The Deputy of the Minister of Marine and Fisheries under the last mentioned Act, as hereby amended, is hereby declared to be the officer bearing that designation in "*The Canada Civil Service Act, 1868,*" and the Schedule A thereto annexed.

"Secretary" to be read "Deputy" in 31 V., c. 57.

Said Deputy to come under Civil Service Act, 31 V., c. 34, sch. A.]

3. Nothing herein contained shall invalidate any act done by the said Deputy, as the Secretary of the said Minister, before the passing of this Act.

Acts done by Deputy as Secretary confirmed.

9. POSTAL SERVICE.

38 VICT. CAP. 7.

An Act to amend and consolidate the Statute Law for the regulation of the Postal Service.

[Assented to 8th April, 1875.]

Preamble :
31 V. c. 10.

IN amendment of the Act passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act for the regulation of the Postal Service*," and for consolidating the Statute Law touching the said service, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

PRELIMINARY—INTERPRETATION.

Short Title. **1.** This Act shall be known and may be cited as "*The Post Office Act, 1875*;" and the following terms and expressions therein shall be held to have the meaning hereinafter assigned to them, unless such meaning be repugnant to the subject or inconsistent with the context :—

Letter. The term "Letter" includes Packets of Letters;

Postage. The term "Postage" means the duty or sum chargeable for the conveyance of Post Letters, Packets and other things by Post;

Foreign Country. The term "Foreign Country" means any country not included in the dominions of Her Majesty;

Foreign Postage. The term "Foreign Postage" means the postage on the conveyance of Letters, Packets or other things, within any Foreign country or payable to any Foreign Government;

Canadian Postage. The term "Canada Postage" means the postage on the conveyance of Letters, Packets and other things, by Post, within the Dominion of Canada or by Canada Mail Packet;

Mail. The term "Mail" includes every conveyance by which Post Letters are carried, whether it be by land or by water;

British Packet Postage. The term "British Packet Postage" means the postage due on the conveyance of letters by British Packet Boats, between

the United Kingdom and British North America:—And the term “British Postage” includes all Postage not being Foreign, Colonial or Canadian;

The expression “employed in the Canada Post Office” Employed in the Canada Post Office. applies to any person employed in any business of the Post Office of Canada;

The term “Post Letter” means any letter transmitted or Post Letter. deposited in any Post Office to be transmitted by the Post or delivered through the Post, or deposited in any letter-box put up anywhere under the authority of the Postmaster-General to be transmitted or delivered through the Post;—And a letter shall be deemed a Post Letter from the time of its being so deposited or delivered at a Post Office, to the time of its being delivered to the party to whom it is addressed; and a delivery to any person authorized to receive letters for the Post shall be deemed a delivery at the Post Office; and a delivery of any letter or other mailable matter at the house or office of the person to whom the letter is addressed, or to him, or to his servant or agent, or other person considered to be authorized to receive the letter or other mailable matter, according to the usual manner of delivering that person's letters, shall be a delivery to the person addressed;

The term “Mailable Matter” includes any letter, packet, Mailable Matter. parcel, newspaper, book or other thing which by this Act or by any regulation made in pursuance of it, may be sent by Post;

The term “Post Letter Bag” includes a Mail Bag or Box, Post Letter Bag. or Packet or Parcel, or other envelope or covering in which mailable matter is conveyed, whether it does or does not actually contain mailable matter;

The term “any Post Office” means any building, room, Any Post Office. street letter-box, receiving box or other receptacle or place where Post Letters or other mailable matter are received or delivered, sorted, made up or dispatched;

The term “Valuable Security” includes the whole or any Valuable Security. part of any tally, order or other security or document whatsoever entitling or evidencing the title of any party to any share or interest in any Public Stock or Fund, whether of Canada, or of the United Kingdom, or of any British Colony or Possession, or of any Foreign Country, or in any fund or stock of any body corporate, company or society in Canada or elsewhere, or to any deposit in any Savings' Bank, or the whole or any part of any debenture, deed, bond, Post Office Money Order, bank note, bill, note, cheque, warrant or order or other security for the payment of money, or for the delivery or transfer of any goods, chattels or valuable thing, whether in Canada or elsewhere;

Between.

And the term "between," when used with reference to the transmission of letters or other things, applies equally to such transmission from either place to the other.

Repeal of
Provincial
Laws.

2. All laws in force in the Provinces of Canada, Nova Scotia or New Brunswick, at the Union thereof on the first of July one thousand eight hundred and sixty-seven, in respect to the Postal Service, and continued in force by "*The British North America Act, 1867*," and all laws in force in the Provinces of British Columbia, Prince Edward Island and Manitoba, and the North-West Territories respectively, when they respectively became part of the Dominion of Canada, have been and are hereby declared to be repealed, except as to any act done or performed in virtue of the same, and except in respect of any postage duties which may have become payable under the same or any proceedings for the recovery of such duties, and except also as to any offence committed against the provisions of the said Laws hereby declared to have been and to be repealed, and any fine or penalty incurred by reason of any such offence, or any proceeding for the recovery of any such fine or penalty or for the punishment of any offender.

Saving clause
as to things
done, &c.,
under re-
pealed laws.

Provisional
continuance
of existing
Post Office
arrangements,
Commissions
and appoint-
ments.

3. Except in so far as it may be, otherwise provided in any case by the proper authority under this Act, or any other Act of the Parliament of Canada,—all Post Offices and Postal Divisions, Stations, Districts and Establishments in Canada, and all commissions or appointments of any officers or persons employed in managing the said Posts and Post Communications, or in collecting or accounting for Postage duties and dues, in force at the time when this Act comes into force, shall continue and remain in force; and the nature of the duties and local extent of the powers of each office, and the salary and emoluments of the officer, shall remain the same as if such commissions or appointments had been granted or made under the authority of this Act,—subject always to the provisions hereinafter made.

Existing
bonds, con-
tracts, &c., to
continue in
force.

4. And all bonds given by such officers or persons or their sureties, and all contracts, agreements or engagements made by any party with or to any such officer or person, shall remain in full force and effect, and shall be construed and have effect to all intents and purposes as if made and entered into with express reference to this Act and for the performance of the duties which under this Act may be lawfully assigned to or discharged by such officers and persons respectively: And any contract for the conveyance of Her Majesty's Mails or for any other service to be performed with reference to the Post Office, shall be construed as a contract for the conveyance of Her Majesty's Mails under this Act, and for the performance of the services therein contracted for, for Her Majesty's Canada Post Office, and the fulfilment of such contract may be enforced accordingly under this Act,—payment for such services being made out of Canada funds, but performance otherwise according to the terms of such contract.

Construction
of contracts
for conveyance
of Mails.

5. And every regulation and departmental order not inconsistent with this Act and not providing for a matter for which provision is made by this Act, made by any then competent authority, to guide or direct such officers or persons in the performance of their duties, or to confer, define or regulate their powers and the exercise thereof, shall remain in full force and effect, unless and until such regulation or order is abrogated or provision is made in the like matter by some regulation or order made by competent authority under this Act.

Regulations, &c., to remain in force until abrogated under this Act.

6. Any Act of the Parliament of Canada respecting the collection and management of the revenue, the auditing of public accounts, and the liabilities of public accountants, shall apply to the said Posts and Post Communications, and to the officers and persons employed in managing the same, or in collecting or accounting for the duties and dues aforesaid, except in so far as any provision of such Act is not susceptible of such application or is inconsistent with any provision of this Act.

Application of Revenue Management Acts to Postal matters.

ORGANIZATION AND GENERAL PROVISIONS.

7. There shall be at the Seat of Government of Canada a Post Office Department for the superintendence and management of the Postal service of Canada, under the direction of a Postmaster-General.

Post Office Department.

8. The Postmaster-General shall be appointed by commission under the Great Seal of Canada, and shall hold his office during pleasure.

Postmaster-General.

9. The Governor may appoint all Postmasters having permanent salaries in cities and towns.

Governor to appoint certain Postmasters.

10. The Postmaster-General may, subject to the provisions of this Act—

Powers of Postmaster-General.

1. Establish and close Post Offices and Post Routes ;

Post Offices and Routes.

2. Appoint Postmasters, other than those to be appointed by the Governor, and other officers and servants, and remove or suspend any Postmaster or other officer or servant of the Post Office ;

Postmasters.

3. Enter into and enforce all contracts relating to the conveyance of the Mails, or other business of the Post Office ;

Mail contracts.

4. Make regulations declaring what shall and what shall not be deemed to be mailable matter for the purposes of this Act, and for restricting within reasonable limits the weight and dimensions of letters and packets and other matters sent by Post, and for prohibiting and preventing the sending of explosive, dangerous, contraband or improper articles, obscene or immoral publications, or obscene or immoral postcards ;

Mailable matter.

Rates on
mailable
matter, not
otherwise
provided for.

5. Establish the rates of Postage on all mailable matter, not being letters, newspapers, or other things hereinafter specially provided for, and prescribe the terms and conditions on which all mailable matter not being letters shall in each case or class of cases be permitted to pass by Post, and authorize the opening thereof, for the purpose of ascertaining whether such conditions have been complied with ;

Postage and
registration
stamps,
wrappers, etc.

6. Cause to be prepared and distributed postage and registration stamps necessary for the prepayment of postages and registration charges under this Act ; also stamped envelopes for the like purpose, and post-cards and stamped post bands or wrappers for newspapers or other mailable articles not being post letters ;

Arrange-
ments with
Postal author-
ities out of
Canada.

7. Make and give effect to any arrangements which may require to be made with the Government or with the postal authorities of the United Kingdom, or of any British Possession, or of the United States, or any other Foreign Country, with regard to the collecting and accounting for postage, the transmission of mails, and other matters connected with Posts and Postal business, and the remuneration or indemnity to be paid or received under any such arrangement ;

Refunding
postage on
H.M. Military
or Naval
Service.

8. Make arrangements for refunding such postage as may, from time to time, be paid by Her Majesty's Military or Naval authorities on official correspondence passing between the several stations of Her Majesty's Military and Naval Forces in Canada ;

Post Office
Money Orders.

9. Make orders and regulations concerning the Money Order system and the issuing and paying of Post Office Money Orders in Canada, and when he may deem it expedient arrange for the exchange of such Money Orders with any British Possession or Foreign Country on such terms and conditions as he may agree upon, and as may be set forth in the regulations relating to the same ; and all orders and regulations so made by him shall be binding and conclusive upon the persons in favour of whom such Money Orders shall be issued, and the payees thereof and all persons interested through or claiming under them, and upon all other persons whomsoever ;

Departmental
Rules and
Orders.

10. Make and alter rules and orders for the conduct of and management of the business and affairs of the Department, and for the guidance and government of the Postmasters and other officers and servants of the Post Office in the performance of their duties ;

Registration
of letters.

11. Prescribe and enforce such regulations as to letters directed to be registered, as to him may seem necessary, in respect to the registration of letters and other matter passing by Mail, as well between places in Canada, as between Canada and the United Kingdom, any British Possession, the United

States or any other Foreign Country, and to the charge to be made for the same; and also in respect to the registration by the officers of the Post Office of letters unquestionably containing money or other valuable enclosure when posted without registration by the senders of the same, and to imposing a rate of two cents registration charge upon such letters;

12. Decide all questions which may arise as to what shall be deemed to be a letter or letter packet, newspaper, periodical or other article of mailable matter, admitted to pass by Post under this Act, and as to the rate of postage to which it may consequently be liable;

Questions as to periodicals, &c.

13. Sue for and recover all sums of money due for postage or for penalties under this Act or under any Act or law of the Provinces of Canada, Nova Scotia or New Brunswick, British Columbia, Prince Edward Island, Manitoba or the North-West Territories, or by any Postmaster or his sureties;

Suits for postage, &c.

14. Establish and provide street letter boxes or pillar boxes or boxes of any other description, for the receipt of letters and such other mailable matter as he may deem expedient, in the streets of any city or town in Canada, or at any railway station or other public place where he may consider such letter box to be necessary;

Street letter boxes, &c.

15. Grant licenses, revocable at pleasure, to agents other than Postmasters, for the sale to the public of postage stamps and stamped envelopes, and allow to such agents a commission of not exceeding five per cent. on the amount of their sales;

Sale of stamps, &c.

16. Impose, with the approval of the Governor in Council, pecuniary penalties not exceeding two hundred dollars for any one offence on persons offending against any such regulation as aforesaid, whether they be or be not officers of the Post Office;

Penalties for contravention of Regulations.

17. And generally to make such regulations as he deems necessary for the due and effective working of the Post Office and Postal business and arrangements, and for carrying this Act fully into effect;

General purposes.

18. And every such regulation as aforesaid may, from time to time, be repealed or amended by any subsequent regulation made in like manner: and every such regulation shall, until it be otherwise ordered by any subsequent regulation, have force and effect as if it formed part of the provisions of this Act, unless it be inconsistent with the enactments thereof.

Amending or repealing regulations, and their effect.

11. Any general regulation made by the Postmaster General under this Act, other than those made solely for the guidance and government of the officers or other persons employed in the Postal service, which may be communicated by Departmental Order, or otherwise, as the Postmaster General may see

Publication, commencement, duration and evidence of regulations made by the

Postmaster
General.

fit, shall have effect from and after the day on which the same shall have been published in the Official Gazette, or from and after such later day as may be appointed for the purpose in such regulation, and during such time as shall be therein expressed, or if no time be expressed for that purpose, then until the same is revoked or altered ; and every such regulation may be revoked, varied or altered by any subsequent regulation ; and a copy of the Official Gazette containing any such regulation shall be evidence of such regulation to all intents and purposes whatsoever.

Bonds, &c.,
to be valid.

12. And any bond or security required or authorized by any such regulation or by any order of the Postmaster General, in any matter relative to the Post Office, or to the observance of any provision of this Act or any regulation or order made under it, shall be valid in law, and may be enforced according to its tenor on breach of the condition thereof.

Regulations
to conform to
Act.

13. No regulation made under this Act shall be inconsistent with the express provisions thereof.

Post Office
Inspectors
and Assist-
ants.

14. The Governor may, from time to time, appoint fit and proper persons to be and to be called Post Office Inspectors, and Assistant Post Office Inspectors, and to be stationed at such places and to exercise their powers and perform their duties and functions within such limits respectively as he may from time to time appoint ;

Their duties :
specially—

2. And it shall be the duty of such Post Office Inspectors and Assistant Post Office Inspectors, under such instructions as may, from time to time, be given to them by the Postmaster General, to superintend the performance of the mail service, taking care that, as far as the state of the roads and other circumstances will permit, the stipulations of all contracts for the conveyance of the mail are strictly complied with by the contractors ; to instruct new Postmasters in their duties ; to keep the Postmasters to their duty in rendering their accounts and paying over their balances ; to inspect every Post Office from time to time, to see that it is properly kept, and that the Postmasters and their Assistants perfectly understand their instructions and perform their duty well in every particular ; to enquire into complaints or suspected cases of misconduct or mismanagement in respect of such duty, and also into complaints of the miscarriage or loss of letters or other mail matter ; and generally to do all and whatsoever they are, from time to time, instructed or required by the Postmaster General to do for the service of the Post Office Department.

generally.

Deputy
Postmaster
General.

15. The Governor in Council may appoint a proper person to be Deputy Postmaster General to hold office during pleasure, and the said Deputy Postmaster General shall have the oversight and direction of the other officers, clerks and messengers or servants, and of all persons employed in the postal service,

and shall have, under the Postmaster General, the general management of the business of the Department; and his directions shall be obeyed in like manner as the directions of the Postmaster General would be,—subject however to the control of the latter, in all matters whatsoever.

16. Each officer, clerk or servant employed in or by the Post Office Department shall be remunerated by a stated salary or pay, to be fixed by the Postmaster General, subject to the provisions of any Act relating to the Civil Service. Remuneration of Officers.

17. No allowance or compensation shall be made to any clerk or other officer in the Post Office Department, by reason of the discharge of duties which belong to any other clerk or officer in the same Department: and no allowance or compensation shall be made for any extra service whatever which any such clerk or officer may be required to perform: subject nevertheless to the provisions of any Act relating to the Civil Service. No allowance or compensation for extra service.

18. It shall be lawful for the Postmaster General to pay over and deliver to such person or persons as he may consider to be the rightful owner or owners thereof, upon satisfactory evidence of claim, any sum of money or other property stolen or lost from the mails, which may be by the Postmaster General recovered from the thief or thieves, or may otherwise come into his possession. Delivery of money or property lost or stolen from the Mails when recovered.

RATES OF POSTAGE.

19. On all letters transmitted by post for any distance within Canada, except in cases herein otherwise specially provided for, there shall be charged and paid one uniform rate of three cents per half ounce weight, any fraction of a half ounce being chargeable as a half ounce; and such postage rate of three cents shall be prepaid by postage stamp or stamps at the time of posting the letter, otherwise such letter shall not be forwarded by post, except that letters addressed to any place in Canada, and on which one full rate of three cents has been so prepaid, shall be forwarded to their destination charged with double the amount of the postage thereon not so prepaid, which amount shall be collected on delivery. Rates of postage on letters. Prepayment obligatory. Exceptions.

20. On letters not transmitted through the mails, but posted and delivered at the same Post Office, commonly known as local or drop letters, the rate shall be one cent per half ounce weight, to be, in all cases, prepaid by postage stamps affixed to such letters. On local or drop letters.

21. In every case in which any seaman in Her Majesty's Navy, or sergeant, corporal, drummer, trumpeter, fifer or private soldier in Her Majesty's service, is entitled to receive or send letters on the payment of a certain sum and no more, in place On letters to or from Seamen or Soldiers in H. M. Service.

of all British postage thereon, the payment of such sum shall likewise free such letters from all Canada postage thereon ;

Or to commissioned officers in army or navy, &c.

2. And in all cases in which a letter addressed to a commissioned officer of the army or navy, or of any of the departments belonging thereto respectively, at a place where he has been employed on actual service, would be free from British postage on the transmission thereof from such place to any place to which he has removed in the execution of his duty before the delivery of such letter or packet, the same shall in like manner be free from Canada postage ; and the Postmaster General may make such regulations, declaratory and otherwise, as may be necessary for giving effect to this section.

Rates of postage on newspapers and periodicals direct from office of publication.

22. The rate of postage on newspapers and periodical publications printed and published in Canada, and issued not less frequently than once a month from a known office of publication or news agency, and addressed and posted by and from the same to regular subscribers or news agents, shall be one cent for each pound weight, or any fraction of a pound weight, to be prepaid by postage stamps or otherwise as the Postmaster General may, from time to time, direct ; and such newspapers and periodicals shall be put up into packages and delivered into the post office, and the postage rate thereon prepaid by the sender thereof, under such regulations as the Postmaster General may, from time to time, direct.

How to be put up.

On newspapers, &c., posted singly.

23. Newspapers and periodicals weighing less than one ounce each may be posted singly at a postage rate of half a cent each, which must be in all cases prepaid by postage stamp affixed to each.

Rate of postage on books, pamphlets, &c.

24. On all newspapers and periodicals posted in Canada, except in the cases hereinbefore expressly provided for, and on books, pamphlets, occasional publications, printed circulars, prices current, hand-bills, book and newspaper manuscripts, printers' proof sheets, whether corrected or not ; maps, prints, drawings, engravings, lithographs, photographs when not on glass or in cases containing glass, sheet music, whether printed or written, documents wholly or partly printed or written—such as deeds, insurance policies, militia and school returns, or other documents of like nature—packages of seeds, cuttings, bulbs, roots, scions or grafts, patterns or samples of goods or merchandise, the rate of postage shall be one cent for each four ounces, or fraction of four ounces ;

Proviso
How to be put up.

Provided that no letter or other communication intended to serve the purpose of a letter be sent or enclosed in any such newspaper or other package or thing mentioned in this or the next preceding section, and that the same be sent in covers open at the ends or sides, or otherwise so put up as to admit of inspection by the officers of the post office to ensure compliance with this provision : and the postage rate shall be prepaid by

Prepayment.

postage stamp or stamped post bands or wrappers, in all cases when any such articles as are mentioned in this section are posted in Canada.

25. Provided that, notwithstanding anything herein contained, all letters, newspapers and other mailable matter passing by mail between any place in Canada and the United Kingdom, any British possession, the United States, and any other foreign country, shall be liable to such charges and rates of postage on being posted in Canada or on delivery therein, and be subject to such regulations and conditions as may be agreed upon, under any arrangement made by the Postmaster General, for the transmission, despatch, receipt and delivery of the same, and contained in any regulation made by the Postmaster General in pursuance of such arrangement.

Postage on mailable matter between Canada and any other country.

PAYMENT OF POSTAGE.

26. As well the colonial, British or foreign as the Canada postage on any letter or other mailable matter shall, if not prepaid in all cases where prepayment has not been made obligatory, be payable to the Postmaster General by the party to whom the same is addressed, or who may lawfully receive such letter or other thing,—which may be detained until the postage be paid: and any refusal or neglect to pay such postage shall be held to be a refusal to receive such letter or thing, which shall be detained and dealt with accordingly; but if the same is delivered, the postage on it shall be charged against and paid by the Postmaster delivering it, saving his right to recover it from the party by whom it was due, as money paid for such party;

From whom and how postage on unpaid letters may be recovered.

2. If any letter or other mailable matter is refused, or if the party to whom it is addressed cannot be found, then any postage due thereon shall be recoverable by the Postmaster General from the sender of such letter or packet;

Letters refused.

3. The postage marked on any letter or other mailable matter shall be held to be the true postage due thereon; and the party signing or addressing it shall be held to be the sender, until the contrary be shown;

Amount of postage.

4. And all postage may be recovered with costs, by civil action in any court having jurisdiction to the amount, or in any way in which customs duties are or may be recoverable.

How recovered.

27. In all cases where letters and other mailable matter are posted for places without the limits of Canada, on which stamps for prepayment are affixed of less value than the true rate of postage to which such letters are liable,—or when stamps for prepayment are affixed to letters addressed to any place as aforesaid for which prepayment cannot be taken in Canada,—the Postmaster General may forward such letters, charged with postage, as if no stamp had been thereon affixed. And when

Cases in which stamped letters for places out of Canada may be forwarded as unpaid letters.

Disposal of letters not prepaid, &c.

any letter or other mailable matter is posted in Canada without prepayment, or insufficiently prepaid, in any case in which prepayment is by this Act made obligatory, the Postmaster General may detain the same, and cause it to be returned, when practicable, to the sender.

Postmasters and letter-carriers not bound to give change.

28. And for avoiding doubts, and preventing inconvenient delay in the posting and delivery of letters,—no Postmaster shall be bound to give change, but the exact amount of the postage on any letter or other mailable matter shall be tendered or paid to him in current coin as respects letters or other things delivered, bearing unpaid postage, as shall also the exact value in current coin as respects postage stamps, registration stamps, stamped envelopes or post cards, post bands or wrappers, purchased from any Postmaster, and the exact amount of postage payable to any letter-carrier on any letter or mailable matter delivered by him.

SHIP LETTERS.

Conveyance of letters by sea to or from Canada in vessels other than Post Office Packets.

29. The Postmaster General may make such reasonable compensation as he may see fit, to masters of vessels, not being Post Office Packets, for each letter conveyed by such vessels between places beyond sea and Canada; and the Governor in Council may direct that at any port or class of ports, such vessels shall not be permitted by the officers of customs to enter or break bulk until all letters on board the same have been delivered at the Post Office, nor until the master has made declaration, in such form as may be prescribed, that he has delivered all such letters accordingly.

EXCLUSIVE PRIVILEGE OF THE POSTMASTER GENERAL,— AND EXCEPTIONS FROM IT.

Except in certain cases no one but the Postmaster General to collect, convey and deliver letters in Canada on pain of a fine of \$20.

30. Subject always to the provisions and regulations aforesaid, and the exceptions hereinafter made, the Postmaster-General shall have the sole and exclusive privilege of conveying, receiving, collecting, sending and delivering letters within Canada: and (except in the cases hereinafter excepted) any person who collects, sends, conveys or delivers or undertakes to convey or deliver any letter within Canada, or who receives or has in his possession any letter for the purpose of conveying or delivering it, otherwise than in conformity with this Act, shall, for each and every letter so unlawfully conveyed or undertaken to be conveyed, received, delivered or found in his possession, incur a penalty not exceeding twenty dollars;

The exceptions:

But such exclusive privilege, prohibition and penalty shall not apply to—

Letters by private friends.

Letters sent by a private friend in his way, journey or travel, provided such letters be delivered by such friend to the party to whom they are addressed;

Letters sent by a messenger on purpose, concerning the Messenger private affairs of the sender or receiver ;

Commissions or returns thereof, and affidavits or writs, Commissions, process or proceedings or returns thereof, issuing out of a court writs, &c. of justice ;

Letters addressed to a place out of Canada and sent by sea Private and by a private vessel ; vessel.

Letters lawfully brought into Canada, and immediately Posted on posted at the nearest Post Office ; arrival.

Letters of merchants, owners of vessels of merchandise, or Letters with of the cargo or loading therein, sent by such vessel of mer- goods, &c. chandise, or by any person employed by such owners for the carriage of such letters according to their respective addresses, —and delivered to the persons to whom they are respectively addressed, without pay, hire, reward, advantage or profit for so doing ;

Letters concerning goods or merchandise sent by common The same. known carriers to be delivered with the goods to which such letters relate, without hire or reward, profit or advantage for receiving or delivering them ;

But nothing herein contained shall authorize any person to Proviso. collect any such excepted letters for the purpose of sending or conveying them as aforesaid,—or shall oblige any person to send any newspaper, pamphlet or printed book by post.

31. Any person may, and any officer or person employed In case of in the Post Office or in the collection of the revenue of the contravention Dominion, shall seize any letters conveyed, received, collected, letters may be sent or delivered in contravention of this Act, and take them seized and charged with to the nearest Post Office, and give such information to the Postmaster as he may be able to give, and as is necessary for the effectual prosecution of the offender ; and the letters shall moreover be chargeable with letter postage. Postage.

BRANCH OFFICES AND DELIVERY IN CITIES, &c.

32. The Postmaster General may, when in his judgment Establishment the public interest or convenience requires it, establish one or and regulation more Branch Post Offices to facilitate the operation of the of Branch Post Office in any city or place which in his opinion requires Post Offices in any such additional accommodation for the convenience of the Cities. inhabitants ; and he may prescribe the rules and regulations for the Branch Post Offices established by virtue of this Act ; and no additional postage shall be charged for the receipt or delivery of any letter or packet at such Branch Post Office.

33. The Postmaster General may, whenever the same Employment may be proper for the accommodation of the public in any of Letter

Carriers in
Cities and
rate of City
Postage.

city or town, employ letter carriers for the delivery of letters received at the Post Office in such city or town (except such as the persons to whom they are addressed, may have requested, in writing addressed to the Postmaster, to be retained in the Post Office), and for the receipt of letters at such places in such city or town as the Postmaster General may direct, and for the deposit of the same in the Post Office ;

The rates.

2. And for the delivery by a carrier of each letter received from the Post Office, the person to whom the same is delivered shall pay not exceeding two cents, and for the delivery of each newspaper and pamphlet one cent ;—all of which receipts, by the carriers in any city or town, shall be accounted for to the Postmaster General :

Carriers to
give security.

3. Each of such carriers shall give bond, with sureties to be approved by the Postmaster General, for the safe custody and delivery of all letters, and for the due account and payment of all moneys received by him.

Provision for
delivery of
Letters in
Cities free.

34. It shall be lawful for the Postmaster General, with the consent of the Governor in Council, to establish in any city, when he shall deem it expedient, a system of free delivery by letter carrier of letters brought by mail, and he may direct that, from the time that such system is so established, no charge shall be made for the delivery of such letters by letter carriers in such city ; and such system of free delivery when established in any city shall be subject to such regulations as the Postmaster General shall, from time to time, see fit to make.

PARCEL POST.

Parcel Post.

Rate to be
fixed by P.M.
General.

35. The Postmaster General may establish and maintain a parcel post ; and closed parcels, other than letters and not containing letters, may be sent by such parcel post ; and when so sent shall be liable to such charges for conveyance and to such regulations, as the Postmaster General shall, from time to time, see fit to make.

FRANKING AND FREE MAIL MATTER.

Certain
Letters and
other mail-
able matter to
be free of
Postage.

36. All letters and other mailable matter addressed to or sent by the Governor or sent to or by any department of the Government at the seat of government, shall be free of Canada postage under such regulations as may, from time to time, be made in that respect by the Governor in Council ;

Senate and
House of Con-
mons.

2. Letters and other mailable matter addressed to or sent by the Speaker or Chief Clerk of the Senate or of the House of Commons shall be free of Canada postage. Letters and other mailable matter addressed to or by any member of either House at the seat of Government, during any Session of Parliament, or to any of the Members at the seat of government as aforesaid,

during the ten days next before the meeting of Parliament, shall be free of postage :

3. All books belonging to the Library of Parliament at Ottawa may be sent from the same to any Member of either House, or from any such Member addressed to the Librarian, during the recess of Parliament, and free of postage in either case : Books from Parliamentary Library.

4. The privilege of free transmission as above given in this section shall apply only to mail matter passing between the seat of government and places in Canada : Limitation.

5. Members of either the Senate or House of Commons of Canada may, during the recess of Parliament, send by mail, free of postage, all papers printed by order of either House ; and Members of the Legislature of any one of the Provinces of the Dominion may in like manner send by mail free of postage all papers printed by order of such Legislature : Parliamentary papers.

6. The Postmaster General may prescribe the conditions and circumstances under which letters, accounts and papers, relating solely to the business of the Post Office, and addressed to or sent by some officer thereof, shall be free from Canada Postage : Post Office letters, &c.

7. Petitions and Addresses to the Provincial Legislatures of any of the Provinces of the Dominion, or to any branch thereof, and also Votes and Proceedings and other papers printed by order of any such Legislatures or any branch thereof, may be sent free of postage under such regulations as the Postmaster General may prescribe. Petitions to Local Legislature.

PROPERTY IN POST LETTERS, AND OTHER MAILABLE MATTER.

37. From the time any letter, packet, chattel, money or thing is deposited in the Post Office for the purpose of being sent by post, it shall cease to be the property of the sender, and shall be the property of the party to whom it is addressed, or the legal representatives of such party : And the Postmaster General shall not be liable to any party for the loss of any letter, packet or other thing sent by post ; nor shall any letter or packet or other mailable matter be liable to demand, seizure, or detention, whilst in the Post Office, or in the custody of any person employed in the Canada Post Office,—under legal process against the sender thereof or against the party or legal representatives of the party to whom it may be addressed. Property in mailable matter.

DEAD LETTERS.

38. Letters, or other articles, which from any cause remain undelivered in any Post Office, or which, having been posted, cannot be forwarded by post, shall, under such regulations as the Postmaster General may make, be transmitted by Postmas- Dead Letters, how dealt with.

ters to the Post Office Department as Dead Letters, there to be opened and returned to the writers on payment of any postage due thereon, with three cents additional on each Dead Letter to defray the costs of returning the same, less in the case of insufficiently prepaid letters or other mailable matter posted in Canada, such amount of postage as may have been prepaid on the same; or such Dead Letters may in any case or class of cases be otherwise disposed of as the Postmaster-General may direct;

If containing money.

2. If any such Dead Letter, of which the writer cannot be ascertained or found, contains money, the Postmaster General may appropriate it as Postal Revenue, keeping an account thereof; and the amount shall be paid by the Department to the rightful claimant as soon as he is found.

LETTERS CONTAINING CONTRABAND GOODS.

Detention, &c,
of Letters
suspected to
contain
contraband
or dutiable
goods.

39. The Postmaster General, or any Postmaster by him to that effect duly authorized, may detain any Post Letter or other article of mail matter suspected to contain any contraband goods, wares or merchandise, or any goods, wares or merchandise on the importation of which into Canada any duties of customs are by law payable, and suspected to have been enclosed therein and sent by post to evade payment of such duties, and forward the same to the nearest Collector of Her Majesty's Customs, who, in the presence of the person to whom the same may be addressed, or in his absence in case of non-attendance, after due notice in writing from such Collector requiring his attendance, left at or forwarded by the post according to the address on the letter or other article of mail matter, may open and examine the same;

If any such
goods be
found.

2. And if, on any such examination, any contraband goods, wares or merchandise, or any goods, wares or merchandise on the importation of which into Canada any duties of customs are payable, are discovered, such Collector may detain the letter or other article of mail matter and its contents for the purpose of prosecution; and if no contraband goods, wares or merchandise, or any goods, wares or merchandise on the importation of which into Canada any duties of customs are by law payable, are discovered in such letter or other article of mail matter, it shall, if the party to whom it is addressed is present, be handed over to him on his paying the postage (if any) charged thereon, or if he is not present, it shall be returned to the Post Office and be forwarded to the place of its address.

And if not.

TOLLS—AND FERRIES.

Tolls and
Feries, Mails
when exempt.

40. No mail stage, or other winter or summer vehicle carrying a mail, shall be exempted from tolls or dues on any road or

bridge in Canada, unless in the Act or charter authorizing such road or bridge it is specially so provided ;

2. Every ferryman shall, upon request and without delay, convey over his ferry any courier or other person travelling with the mail, and the carriage and horse or horses employed in carrying the same, and the sum to be paid for such service shall be fixed by contract ; or if any ferryman demands more than the Post Office authorities or the contractor for carrying the mail are willing to pay, the amount to be paid shall be fixed by arbitrators, each party naming an arbitrator, and the two arbitrators naming a third, the decision of any two arbitrators to be binding ;

Obligations of
ferryman.

3. No toll-gate keeper or ferryman shall detain or delay a mail on pretence of demanding toll or ferriage, but the same, if due and not paid, shall be recovered in the usual course of law from the party liable.

Mail not to be
delayed.

UNITED STATES MAILS PASSING THROUGH CANADA.

41. The Postmaster General may, from time to time, with the approval of the Governor in Council, make any arrangement which he deems just and expedient, for allowing the mails of the United States to be carried or transported over any portion of Canada, from any one point in the territory of the said United States to any other point in the same territory, upon obtaining the like privilege for the transportation of the mails of Canada through the United States when required.

Postmaster
General may
allow United
States mails
to be carried
through
Canada on
certain
conditions.

42. Every United States mail so carried or transported as last aforesaid shall, while in Canada, be deemed and taken to be a mail of Her Majesty, so far as to make any violation thereof, any depredation thereon, or any act or offence in respect thereto or to any part thereof, which would be punishable under the existing laws of Canada if the same were a Canada mail or part of a Canada mail, an offence of the same degree and magnitude and punishable in the same manner and to the same extent as though the same were a Canada mail or part of a Canada mail ;—And in any indictment for such act or offence, such mail or part of a mail may be alleged to be, and on the trial of such indictment shall be held to be a Canada mail or part of a Canada mail ; and in any indictment for stealing, embezzling, secreting or destroying any post letter, post letter-bag, packet, chattel, money or valuable security sent by post through and by any of the said United States mails as aforesaid, in the indictment to be preferred against the offender, the property of such post letter, post letter-bag, packet, chattel, money or valuable security sent by post as herein mentioned, may be laid in the Postmaster General,—and it shall not be necessary to allege in the indictment or to prove upon the trial or otherwise, that the post

Such mails to
be deemed
while in
Canada Her
Majesty's
Canada mails
as regards the
punishment
of offences
committed
in respect
thereof.

Property in
such mails.

letter, post letter-bag, packet, chattel or valuable security was of value.

POSTMASTERS.

Postmaster to give bonds.

43. The Postmaster General shall, upon the appointment of any Postmaster, require and take of such Postmaster a bond, with good and approved security, in such penalty as he deems sufficient, conditioned for the faithful discharge of all the duties of such Postmaster required by law, or which may be required by any instruction or regulation or general rule for the government of the Post Office ;

Sureties may be changed and new bonds executed.

2. And when any surety of a Postmaster notifies to the Postmaster General his desire to be released from his suretyship, or when the Postmaster General deems it necessary, he may require such Postmaster to execute a new bond, with sureties,—which bond, when accepted by the Postmaster General, shall be as valid as the bond given upon the original appointment of the Postmaster ; and the sureties in the prior bond shall be released from responsibility for all acts or defaults of the Postmaster done or committed subsequent to the acceptance of the new bond,—the date of which acceptance shall be duly endorsed on such prior bond ;

Application of payments made after new bonds.

3. Payments made by such Postmaster subsequent to the acceptance of a new bond, shall be applied first to the discharge of any balance due by him at the time of such acceptance, unless the Postmaster General shall otherwise direct ;

Limitation of suits against sureties.

4. And no suit shall be instituted against any surety of a Postmaster after the lapse of two years from the death, resignation or removal from office of such Postmaster, or from the date of the acceptance of a new bond from such Postmaster.

Accountability of Postmasters to be enforced by Postmaster General.

44. The Postmaster General may appoint the periods at which each Postmaster or person authorized to receive postage or any class or number of Postmasters or persons respectively, shall render his or their accounts, and the form and manner in which such accounts shall be kept and rendered : and if any Postmaster or any such person neglects or refuses to render his accounts, and to pay over to the Postmaster General the balance by him due at the end of any such period, the Postmaster General may cause a suit to be commenced against the person or persons so neglecting or refusing.

Penalty for delay in the rendering of accounts.

45. If any Postmaster neglects to render his accounts for one month after the time or in the form and manner prescribed by the Postmaster General's instructions and regulations, he shall forfeit double the value of the postages which have arisen at the same office in any equal portion of time previous or subsequent thereto, to be recovered by the

Postmaster General in an action of debt on the bond against the Postmaster and his sureties, and for which the sureties shall be liable.

46. No Postmaster shall, under any pretence whatsoever, have or receive or retain for himself any greater or other allowance or emolument of any kind than the amount of his salary and allowances as fixed and authorized by law or by the Postmaster General.

Postmasters to have only the amount of their authorized salaries and allowances.

47. Postmasters whose salaries are not fixed by law may be paid by a percentage on the amount collected by them, or by such salary and allowances as the Postmaster General by regulation may determine in each case, having due regard to the duties and responsibilities assigned to each Post Office.

Postmaster General may fix such salary on percentage in certain cases.

MAIL CONTRACTS AND CONTRACTORS.

48. The Postmaster General, before entering into any contract for carrying the mail involving an annual cost of more than two hundred dollars, shall give at least six weeks' previous notice by advertisement in such newspaper or newspapers as he may select in each case, and by public notices put up in the principal post offices concerned in such contract,—that such contract is intended to be made, and of the day on which tenders for the same will be by him received;

Mail contracts for more than \$200 per ann. to be awarded only after advertising for tenders.

2. And the contracts, in all cases in which there is more than one tender, shall be awarded to the lowest bidder tendering sufficient security for the faithful performance of the contract, unless the Postmaster General is satisfied that it is for the interest of the public not to accept the lowest tender;

Contract to be awarded to the lowest bidder giving good security, unless for cause.

3. The Postmaster General shall not be bound to consider the bid of any person who has wilfully or negligently failed to execute or perform a prior contract; but in all cases where he does not give the contract to the lowest bidder, he shall report his reasons therefor to the Governor, for the information of Parliament.

If otherwise, reasons to be reported to the Governor.

49. When in the opinion of the Postmaster General the lowest proposal received after public advertisement for the performance of a mail contract is excessive, he shall not be compelled to accept the said proposal, but may, in his discretion, either re-advertise the said contract for further competition, or offer to the persons from whom proposals have been received, each in his turn, beginning with the lowest, such sum as he deems an equitable and sufficient price for the said contract, and may enter into a contract with such of the said persons as will accept such offer.

Lowest offer not to be accepted if deemed excessive.

Proceedings in such case.

Postmaster may be allowed to be a contractor.

50. It shall be within the discretion of the Postmaster General to authorize and allow a Postmaster to undertake and perform a contract for the transportation of a mail, subject to the regulations applying to all mail contracts, when, in his opinion, the interests of the public service will be thereby promoted.

Every tender to be accompanied by a written guarantee to give good security.

51. Every proposal for carrying the mail shall be accompanied by an undertaking, signed by one or more responsible persons, to the effect that he or they undertake that the bidder will, if his bid be accepted, enter into an obligation, within such time as may be prescribed by the Postmaster General, with good and sufficient sureties, to perform the service proposed ;

Penalty for failure to give security after acceptance of tender.

2. If after the acceptance of a proposal and notification thereof to the bidder, he fails to enter into an obligation within the time prescribed by the Postmaster General, with good and sufficient sureties for the performance of the service, then the Postmaster General shall proceed to contract with some other person for the performance of the said service, and may forthwith cause the difference between the amount contained in the proposal so undertaken, and the amount for which he has contracted for the performance of the said service, for the whole period of the proposal, to be charged up against the said bidder and his surety or sureties ; and the same may be immediately recovered for the use of the Post Office in an action of debt in the name of the Postmaster General against either or all of the said persons.

How recoverable.

Contracts for less than \$200 per annum, to be let as the Postmaster General sees fit.

52. The Postmaster General may, at his discretion, submit contracts for mail transportation, involving an annual expense of less than two hundred dollars, to public competition in the manner and form prescribed for contracts of a greater annual charge—or he may direct an agent to receive tenders for and execute such contracts on his behalf—or he may in special cases conclude such contracts by private agreement when he conceives the public interest will be promoted by such a course; but he shall not pay, under any such contract made by private agreement, a higher rate of annual payment for the services to be performed than is ordinarily paid for services of a like nature under contracts let by public advertisement.

Proviso.

Contracts not to be made with persons who have combined to keep back tenders.

53. No contract for carrying the mail shall knowingly be made by the Postmaster General with any person who has entered into any combination or proposed to enter into any combination to prevent the making of any bid for a mail contract by any other person, or who has made any agreement, or has given or performed or promised to give or perform any consideration whatever, or to do or not to do anything whatever, in order to induce any other person not to bid for a mail contract.

54. The Postmaster General may contract for conveying the mail with any railway or steamboat company either with or without advertising for such contract; but all contracts involving the payment of a larger sum than one thousand dollars shall be submitted to the Governor in Council.

As to contracts with Railways or Steamboat Companies.

55. The Postmaster General shall keep recorded, in a well-bound book, a true and faithful abstract of offers made to him for carrying the mail, embracing as well those which are rejected as those which are accepted—the said abstract to contain a description of each contract advertised for public competition, the dates of the offers made, the dates at which they were received by the Postmaster General, the names of the parties offering, the terms on which they propose to carry the mail, the sum for which it is offered to contract, and the length of time the agreement is to continue; and the Postmaster General shall also put on file and preserve the originals of the propositions of which abstracts are here directed to be made;

Abstracts of tenders to be recorded.

Originals to be preserved.

2. No contract shall be entered into for a longer term than four years; but the Postmaster General may, in special cases, when in his opinion the service has been satisfactorily performed under an expiring contract, and on conditions advantageous for the public interest, renew the same with the same contractor for a further term of not exceeding four years.

No contract to be for more than four years.

56. The Postmaster General may make temporary contracts for such services until a regular letting in the form prescribed can take place.

Temporary contracts.

57. No additional compensation shall be made to any mail contractor so as to make the compensation for additional regular service exceed the exact proportion which the original compensation bears to the original service stipulated to be performed; and no extra allowance shall be made by the Postmaster General to any contractor, for an increase of expedition in the transportation of the mail, unless thereby the employment of additional stock or carriers by the contractor is rendered necessary; and in such case the additional compensation shall never bear a greater proportion to the additional stock or carriers rendered necessary than the sum stipulated in the original contract bears to the stock and carriers necessarily employed in its execution.

Additional compensation limited.

And so of extra allowance.

58. Her Majesty's Mail and persons travelling therewith on Postal service, shall, at all times when thereunto required by the Postmaster General, be carried on any and every railway made or to be made in Canada, and with the whole resources of the railway company if required, on such terms and conditions and under such regulations as the Governor in Council makes.

Her Majesty's Mail to be carried on Railways on terms and conditions to be fixed by Governor in Council.

POST OFFICE SAVINGS BANKS.

Postmaster General may establish Post Office Savings Banks.

59. To enlarge the facilities now available for the deposit of small savings, and to make the Post Office available for that purpose, and to give the direct security of the Dominion to every depositor for repayment of all moneys deposited by him, together with the interest due thereon,—the Postmaster General may, with the consent of the Governor in Council, establish a system of Post Office Savings Banks, in connection with a Central Savings Bank established as a branch of the Post Office Department at the seat of Government.

Postmasters to receive and repay deposits.

60. The Postmaster General may, with the consent of the Governor in Council, authorize and direct such Postmasters as he shall think fit, to receive deposits for remittance to the central office, and to repay the same, under such regulations as he, with the sanction of the Governor in Council, may prescribe in that respect.

Deposits to be entered in Depositor's Book, and entry to be attested.

61. Every deposit received by any Postmaster appointed for that purpose shall be entered by him at the time in the depositor's book, and the entry shall be attested by him and by the dated stamp of his office, and the amount of such deposit shall, upon the day of such receipt, be reported by such Postmaster to the Postmaster General, and the acknowledgment of the Postmaster General, signified by the officer whom he shall appoint for the purpose, shall be forthwith transmitted to the depositor, and the said acknowledgment shall be conclusive evidence of his claim to the repayment thereof with the interest thereon, upon demand made by him on the Postmaster General; and in order to allow a reasonable time for the receipt of the said acknowledgment, the entry by the proper officer in the depositor's book shall also be conclusive evidence of the title for ten days from the lodgment of the deposit; and if the said acknowledgment shall not have been received by the depositor through the post within ten days, and he shall, before or upon the expiry thereof, demand the said acknowledgment from the Postmaster General, then the entry in his book shall be conclusive evidence of title during another term of ten days, and *toties quoties*: Provided always, that such deposits shall not be of less amount than one dollar, nor of any sum not a multiple thereof, and that no sum of money deposited under this Act shall at any time be liable to demand, seizure, or detention while in the hands of any Postmaster or while in course of transmission to or from the Postmaster General, under legal process against the depositor thereof.

Acknowledgment of deposit by Postmaster General to be transmitted to depositor within ten days.

Proviso.

Deposit to be repaid to Depositor on demand with the least possible delay.

62. On demand of the depositor or party legally authorized to claim on account of the depositor, made in such form as shall be prescribed in that behalf, for repayment of any deposit, or any part thereof, the authority of the Postmaster General for such repayment shall be transmitted to the depositor forthwith, and the depositor shall be entitled to repayment of any sum or

sums that may be due to him with the least possible delay after his demand shall be made at any Post Office where deposits are received or paid.

63. The Postmasters and other officers of the Post Office engaged in the receipt or payment of deposits shall not disclose the name of any depositor nor the amount deposited or withdrawn, except to the Postmaster General, or to such of his officers as may be appointed to assist in carrying into operation the provisions of this Act in relation to Post Office Savings Banks.

Name of Depositor or amount deposited or withdrawn not to be disclosed by officers.

64. All moneys so deposited with the Postmaster General shall forthwith be paid over to the Receiver General of Canada, and shall be credited to an account called "Post Office Savings Bank Account;" and all sums withdrawn by depositors, or by parties legally authorized to claim on account of depositors, shall be repaid to them by the Receiver General, through the office of Her Majesty's Postmaster General, and charged to such account.

Money deposited to be paid over to Receiver General, and sums withdrawn to be repaid by him.

65. The interest payable to the parties making such deposits shall be at the rate of four dollars per centum per annum; but such interest shall not be calculated on any amount less than one dollar or some multiple thereof, and not commence until the first day of the calendar month next following the day of deposit, and shall cease on the first day of the calendar month in which such deposit is withdrawn.

Interest on all deposits to be payable for each \$1, for each whole Calendar month, at 4 per cent. per annum.

66. On the thirtieth day of June in every year the interest on deposits shall be added to and become part of the principal money.

Interest when to become principal.

67. With the consent of the Governor in Council, the Postmaster General may, whenever it may be deemed expedient, issue certificates of deposit in sums of not less than one hundred dollars, and bearing interest at the rate of not exceeding five per cent. per annum, to depositors who, having like sums at the credit of their ordinary deposit accounts, may desire to transfer such sums from such ordinary deposit accounts, to a special deposit account represented by such certificates, and bearing the rate of interest specified thereon; and such certificate shall not be transferable, but shall be evidence of the depositor's claim upon such special deposit account to the amount expressed in such certificate, with the interest due thereon, and shall be redeemable upon such previous notice as may be expressed thereon, and in all respects subject to such regulations as the Postmaster General, with the sanction of the Governor in Council, may make.

Certificates of deposit, bearing interest at five per cent. may be issued for sums not less than \$100.

How and when redeemable.

68. Except as may be herein otherwise specially provided, the Postmaster General may make, and from time to time as he shall see occasion, alter regulations for superintending, inspect-

Post Office Savings Bank Regulations may be made.

by Postmaster General. ing and regulating the mode of keeping and examining the accounts of depositors, and with respect to the making of deposits and to the withdrawal of deposits and interest, and all other matters incidental to the carrying the provisions of this Act in relation to Post Office Savings Banks into execution by him; and all regulations so made shall be binding on the parties interested in the subject matter thereof to the same extent as if such regulations formed part of this Act; and as respects evidence of such regulations and publication thereof, the provisions in these respects of the eleventh section of this Act shall apply; and copies of all regulations issued under the authority of this Act, in relation to Post Office Savings Banks, shall be laid before both Houses of Parliament within fourteen days from the date thereof, if Parliament shall be then sitting, and if not, then within fourteen days from the next re-assembling of Parliament.

Legal effect of Regulations.

Copies to be laid before Parliament.

Monthly return of receipts and payments to be published in *Canada Gazette*.

69. As soon as possible after the end of each month, the Postmaster General shall make a return to the Auditor of Public Accounts of all moneys received and paid during the preceding month, and of the total amount in deposit at the end of each month, and the Auditor shall cause such monthly statement to be inserted in the *Canada Gazette*.

Annual account and statement to be laid before Parliament.

70. An annual account of all deposits received and paid under the authority of this Act, and of the expenses incurred during the year ended the thirtieth of June, together with a statement of the total amount due at the close of the year to all depositors, shall be laid by the Postmaster General before both Houses of Parliament within ten days after the commencement of the next following session thereof.

POSTMASTER GENERAL'S REPORTS.

Annual Report to Parliament.

71. The Postmaster General shall make to the Governor annually, so that they may be laid before Parliament within ten days after the meeting thereof in each Session, the following Reports, which shall be made up to the thirtieth day of June then last, that is to say:—

General account current, what to contain and shew.

First. A Report of the finances, receipts and expenditure of the Post Office of Canada for the year ended on the thirtieth day of June previous, in the form of a general account current, shewing on the one side the whole amount of balances due to the Department from Postmasters or others at the time up to which the then last report was made, the whole amount of postage that accrued within the year elapsed since such last report, and any and every other item of revenue or receipt;—and on the other side of the account, the charges and expenditures incurred by the Department within the said year, of every kind and nature, shewing in separate amounts the charges for mail transportation, for salaries and commission and allowances to Postmasters, for printing and advertising, and for incidental and

miscellaneous items of expenditure; shewing also the balance remaining due from Postmasters and others at the close of such year; and shewing in the shape of a balance what the result of the operations of the Department is for the said year, whether to produce a surplus of revenue in excess of expenditure, or to cause the expenditure to exceed the revenue, and in either case to what amount;

Second. A Report shewing in detail all payments made and charges incurred for mail transportation during the said year, stating in each case the name of the contractor or party receiving payment, the mail route, the mode and frequency of transportation, and the sums paid;

Payments for mail transport in detail.

Third. A Report in detail of all charges for salaries, commissions and allowances, shewing in each case the name of the person, the service or duty performed, and the amount paid;

Saltries, &c., in detail.

Fourth. A Report in detail of the expenditure of the Department within the said year for printing and advertising, and for all incidental and miscellaneous items of disbursement, shewing the sum paid under each head of expenditure, and the names of the persons to whom paid;

Incidental expenditure in detail.

Fifth. A Report of all cases occurring within the said year of the abstraction or loss of letters containing money sent through the post, shewing the particulars of each case, and stating the result of the proceedings instituted therein by the Department;

Cases of loss or abstraction of money letter.

Sixth. A Report of the Money Order Offices in operation at any time within the said year, designating in each case the county wherein the office is situate, the number and amount of orders issued and paid, and the amount of commission arising thereupon at each office respectively,—distinguishing, with respect to the commission, the proportion allowed as compensation to the Postmaster, and the proportion accruing to the revenue in each case;

Money Order Offices.

Seventh. The cost of the Money-Order system for the year to which the report relates, specifying in detail the disbursements for salaries, advertising, account books, printing, stationery and every other item of expenditure;

Cost of Money Order System.

Eighth. The losses, if any, sustained in conducting the Money-Order system, and how incurred;

Losses under Money Order System.

Ninth. Statement of Dead Letters received during the year, and of their contents, valuable or otherwise, shewing how such Dead Letters have been disposed of;

Dead Letters.

Tenth. Statement of Post Office Savings Bank transactions during the said year, and of the total amount due at the close of the same to all depositors.

Post Office Savings Bank transactions.

OFFENCES AND PENALTIES.

Stealing, &c.,
Post Letters.

72. To steal, embezzle, secrete or destroy any post letter shall be felony, punishable in the discretion of the court by imprisonment in the penitentiary for not less than three nor more than five years; unless such post letter contains any chattel, money or valuable security, in which case the offence shall be punishable by imprisonment in the penitentiary for life, or for a period not less than five years :

Stealing from
a Post Letter.

2. To steal from or out of a post letter any chattel, money or valuable security, shall be felony, punishable by imprisonment in the penitentiary for life, or for a period not less than five years :

Stealing a
Post Letter
or Post Letter
Bag.

3. To steal a post letter bag, or a post letter from a post letter bag, or a post letter from any Post Office, or from any officer or person employed in the Canada Post Office, or from a mail,—or to stop a mail with intent to rob or search the same,—shall be felony, punishable by imprisonment in the penitentiary for life, or for a period not less than five years :

Opening a
Post Letter
Bag.

4. To open unlawfully any post letter bag,—or unlawfully to take any letter out of such bag,—shall be felony punishable by imprisonment in the said penitentiary for five years :

Stealing parcel
or its
contents.

5. To steal, embezzle or secrete any parcel sent by Parcel Post, or any article contained in any such parcel, shall be felony punishable by imprisonment in the penitentiary for a period of not less than three years :

Receiving
stolen Post
Letter or Post
Letter Bag,

6. To receive any post letter, or post letter bag, or any chattel, money or valuable security, parcel or other thing the stealing, taking, secreting or embezzling whereof is hereby made felony, knowing the same to have been feloniously stolen, taken, secreted or embezzled, shall be felony, punishable by imprisonment in the penitentiary for any term not less than five years : and the offender may be indicted and convicted either as an accessory after the fact or for a substantive felony,—and in the latter case whether the principal felon hath or hath not been previously convicted, or is or is not amenable to justice ; and however such receiver be convicted, the offence shall be punishable as aforesaid :

Unlawfully
issuing Money
Orders.

7. To unlawfully issue any money order with a fraudulent intent, shall be felony punishable by imprisonment in the penitentiary for a period of not less than three years :

Forging any
Postage
Stamp, &c.

8. To forge, counterfeit or imitate any postage stamp issued or used under the authority of this Act, or by or under the authority of the Government or proper authority of the United Kingdom, or of any British possession, or of any foreign country,—or knowingly to use any such forged, counterfeit or

imitated stamp,—or to engrave, cut, sink or make any plate, die or other thing whereby to forge, counterfeit or imitate such stamp or any part or portion thereof,—or to have possession of any such plate, die or other thing as aforesaid, except by the permission in writing of the Postmaster General, or of some officer or person who, under regulations made in that behalf, may lawfully grant such permission,—or to forge, counterfeit or unlawfully imitate, use or affix, to or upon any letter or packet, any stamp, signature, initials or other mark or sign purporting that such letter or packet ought to pass free of postage, or at a lower rate of postage, or that the postage thereon or any part thereof hath been prepaid or ought to be paid by or charged to any person, department or party whomsoever,—shall be felony, punishable by imprisonment in the penitentiary for life, or for a period not less than five years; and to such felony, all the provisions of any “*Act respecting Forgery*,” shall apply as if such offence were made felony under that Act, in so far as the provisions thereof are not inconsistent with this Act, and the accessories to any such offence shall be punishable accordingly:

Felony.

Punishment.

9. To forge, counterfeit or imitate any Post Office Money Order, or advice of such Money Order, or Post Office Savings Bank Depositor's Book, or authority of the Postmaster General for repayment of a Post Office Savings Bank deposit or of any part thereof,—or any signature or writing in or upon any Post Office Money Order, Money Order advice, Post Office Savings Bank Depositor's Book, or authority of Postmaster General, for repayment of a Post Office Savings Bank deposit or of any part thereof, with intent to defraud, shall be a felony punishable by imprisonment in the penitentiary for any term not less than two years and not exceeding seven years; and the accessories to any such offence shall be punishable accordingly:

Forging
Money Order
or Depositors'
Books, &c.

10. If any person steals, purloins, embezzles, or obtains by any false pretence, or aids or assists in stealing, purloining, embezzling, or obtaining by any false pretence, or knowingly or unlawfully makes, forges or counterfeits, or causes to be unlawfully made, forged or counterfeited, or knowingly aids or assists in falsely and unlawfully making, forging or counterfeiting any key suited to any lock adopted for use by the Post Office Department, and in use on any Canada mail or mail-bag, or has in his possession any such mail-key or any such mail-lock, with the intent unlawfully or improperly to use, sell or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold or otherwise disposed of,—such person shall, on conviction, be deemed guilty of felony, and shall be punished by imprisonment in the penitentiary for a period not exceeding seven years:

Stealing, &c.,
Mail-key or
Mail-lock.

Felony.

Punishment.

11. To open unlawfully, or wilfully to keep, secrete, delay or detain, or to procure or suffer to be unlawfully opened, kept, secreted or detained, any post letter bag, or any post letter,—whether the same came into the possession of the offender by

Unlawfully
opening, etc.,
Post Letter
Bag or Post
Letter.

finding or otherwise howsoever,—or, after payment or tender of the postage thereon (if payable to the party having possession of the same) to neglect or refuse to deliver up any post letter to the person to whom it is addressed or who is legally entitled to receive the same,—shall be a misdemeanour :

Stealing, etc., 12. To steal or for any purpose to embezzle or secrete any certain other printed vote or proceeding, newspaper, printed paper or book, mailable matter. packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, any post card or other mailable matter, not being a post letter, sent by mail, shall be a misdemeanour :

Wilfully des- 13. Wilfully and maliciously to destroy, damage, detain-roying mat- or delay any parcel sent by parcel post, any packet or pack-ter sent by age of patterns or samples of merchandise or goods, orage of Mail or of seeds, cuttings, bulbs, roots, scions or grafts, or any printedParcel Post. vote or proceeding, newspaper, printed paper or book or other mailable matter, not being a post letter, sent by mail, shall be a misdemeanour :

Enclosing 14. To enclose in or with any letter, packet or other mailable explosive matter sent by post, or to put into any Post Office any explosive, substance in dangerous or destructive substance or liquid, or any matter or matter sent by thing likely to injure any letter or other mailable matter or thePost. person of any officer or servant of the Post Office, shall be a misdemeanour, unless such offence is or shall be by law constituted a crime of greater magnitude :

Enclosing a 15. To enclose a letter or letters or any writing intended to letter in any serve the purpose of a letter or post card, in a parcel posted for other mailable the parcel post, or in a packet of samples or patterns posted to matter. pass at the rate of postage applicable to samples and patterns, or to enclose a letter or post card or any writing to serve the purpose of a letter or post card, or to enclose any other thing in a newspaper posted to pass as a newspaper at the rate of postage applicable to newspapers (except in the case of the accounts and receipts of newspaper publishers, which are permitted to pass folded within the newspapers sent by them to their subscribers), or to enclose a letter or any writing intended to serve the purpose of a letter or post card, in any mail matter sent by post not being a letter, shall, in each case, be an offence punishable by a penalty of not less than ten and not exceeding forty dollars in each case :

Removing 16. To remove with fraudulent intent from any letter, news- postage stamp paper or other mailable matter, sent by post, any postage stamp or mark there- which shall have been affixed thereon, or wilfully with intent on with frau- aforesaid to remove from any postage stamp or post card, post- dulent intent. band or wrapper which shall have been previously used, any mark which shall have been made thereon at any Post Office, shall be a misdemeanour :

17. To obstruct or wilfully delay the passing or progress of any mail or of any carriage or vessel, horse, animal or carriage employed in conveying any mail, on any public highway, river, canal or water communication, shall be a misdemeanour :

Obstructing
Mail, &c.

18. To cut, tear, rip or wilfully to damage or destroy any post letter bag, shall be a misdemeanour :

Cutting, &c.,
Post letter
Bag.

19. It shall be a misdemeanour for any mail carrier or any person employed to convey any mail, post letter bag or post letters, to be guilty of any act of drunkenness, negligence or misconduct whereby the safety or punctual delivery of such mail, post letter bag, or post letters might be endangered,—or contrary to this Act or any regulation made under it, to collect, receive or deliver any letter or other mailable matter—or to neglect to use due care and diligence to convey any mail, post letter bag, or post letter, at a rate of speed appointed therefor by the regulations then in force or the contract under which he acts :

Being drunk
on duty as a
Mail Carrier,
&c.

20. It shall be a misdemeanour for any toll-gate keeper to refuse or neglect forthwith upon demand to allow any mail or any carriage, horse or animal employed in conveying the same, to pass through such toll-gate, whether on pretence of the non-payment of any toll or other pretence whatsoever :

Refusing to
allow Mail to
pass through
Toll-Gate.

21. It shall be a misdemeanour for any ferryman wilfully to detain or delay or refuse to convey over, a mail at his ferry :

Detaining,
etc., Mail at
Ferry.

22. Any wilful contravention of any regulation lawfully made under this Act, shall be a misdemeanour, if declared to be so by such regulation :

Wilfully con-
travening
regulations.

23. To solicit or endeavour to procure any person to commit any act hereby made or declared a felony or misdemeanour, shall be a misdemeanour :

Soliciting the
commission of
any such
felony or
misdemeanour .

24. It shall be a misdemeanour for any Postmaster or other person authorized to issue money orders, to issue any money order without having previously received the purchase money, or sum payable therefor :

Further
provision as
to Money
Orders.

25. It shall be a misdemeanour for any Postmaster wilfully to destroy, mutilate or obliterate or refuse to produce or to deliver up to any Inspector or other proper officer of the Post Office Department on demand, any book containing or which ought to contain the record or account of the money orders issued or paid, or of the registered letters, or other business of his office :

Mutilating
official books,
etc.

26. It shall be a misdemeanour for any Postmaster or other officer, agent or employee of the Post Office Department, to hypothecate, pledge or subject to any lien in any shape or way,

Hypothecat-
ing postage
stamps, etc.

any postage stamps, stamped envelopes, post cards, post bands or wrappers entrusted to him for safe keeping, sale or issue to the public, or for any other purpose, or to attempt to commit such offence :

Posting immoral books, etc.

27. To post for transmission or delivery by or through the post any obscene or immoral book, pamphlet, picture, print, engraving, lithograph, photograph or other publication, matter or thing of an indecent, immoral, seditious, disloyal, scurrilous or libellous character, or any letter upon the outside or envelope of which, or any post card or post band or wrapper upon which, there are words, devices, matters or things of the character aforesaid, shall be a misdemeanour :

Punishment for misdemeanour.

28. And every such offence declared to be a misdemeanour by this Act shall be punishable by fine or imprisonment or both in the discretion of the court before whom the offender is convicted :

Accessories and abettors to be punishable as principals.

29. Every principal in the second degree and every accessory before or after the fact to any such felony as aforesaid, shall be guilty of felony, and punishable as the principal in the first degree ; and every person who aids, abets, counsels or procures the commission of any such misdemeanour as aforesaid, shall be guilty of a misdemeanour and punishable as a principal offender :

Imprisonment if for two years or more to be in penitentiary.

30. Any imprisonment awarded under this Act shall be in the penitentiary of that part of the Dominion in which the conviction shall take place, if for a term of or exceeding two years ; and if the imprisonment awarded be for a less term, it may be with or without hard labour in the discretion of the court awarding it.

Embezzlement or unlawful use of money entrusted to him by an officer or connected with the Post Office, to be felony.

73. If any officer of or connected with the Post Office converts to his own use in any way whatever, or uses by way of investment in any kind of property or merchandise, or loans with or without interest, any portion of the public moneys entrusted to him for safe keeping, transfer, disbursement, or for any other purpose,—every such act shall be deemed and adjudged to be an embezzlement of so much of the said moneys as are thus taken, converted, invested, used or loaned, which is hereby declared to be a felony : And the neglect or refusal to pay over any public moneys in his hands, or to transfer or disburse any such moneys promptly, on the requirement of the Postmaster General, shall be *prima facie* evidence of such conversion to his own use of so much of the public moneys as are in the hands of such officer : And all persons advising or knowingly and willingly participating in such embezzlement, upon being convicted thereof before any court of competent jurisdiction, shall, for every such offence, forfeit and pay to Her Majesty, her Heirs or Successors, a fine equal to the amount of the mo-

Penalty for advising, &c. such embezzlement, &c.

ney embezzled, and shall suffer imprisonment for a term not less than three months, and not more than seven years.

74. It shall not be lawful for any person other than a Postmaster to exercise the business of selling postage stamps or stamped envelopes to the public unless duly licensed so to do by the Postmaster General, and under such conditions as he may prescribe; and any person who shall violate this provision by selling postage stamps or stamped envelopes to the public without a license from the Postmaster General, shall, on conviction before a Justice of the Peace, incur a penalty of not exceeding forty dollars for each offence.

None but Postmasters to sell postage stamps without license: Penalty \$40.

75. If any person wilfully or maliciously injures or destroys any street letter box, pillar box or other receptacle established by authority of the Postmaster General, for the deposit of letters or other mailable matter, such person shall, on conviction, be deemed guilty of a misdemeanour punishable by fine or imprisonment, or both, in the discretion of the court before which the offender is convicted, and every person who aids, abets, counsels or procures the commission of this offence shall be guilty of a misdemeanour and be indictable and punishable as a principal offender.

Wilfully injuring, &c., any Street Letter Box, &c., to be a misdemeanour.

76. If any person uses or attempts to use in prepayment of postage on any letter or mailable matter posted in Canada any postage stamp which has been before used for a like purpose, or if any person uses or attempts to use for the purpose of transmission by or through the post, any post card or stamped envelope or stamped post band or wrapper which has been before used for a like purpose, such person shall be subject to a penalty of not less than ten and not exceeding forty dollars for every such offence, and the letter or other mailable matter on which such stamp has been so improperly used, and the post card, stamped envelope, or stamped post band or wrapper so used more than once may be detained, or in the discretion of the Postmaster General forwarded to its destination charged with double postage.

Penalty for using postage stamps used before.

77. If any person, without the authority of the Postmaster General, the proof of which authority shall rest on such person, shall place or permit or cause to be placed or to remain, on his house or premises, the words *Post Office*, or any other words or mark which may imply or give reasonable cause to believe that such house or premises is or are a Post Office or a place for the receipt of letters, he shall, on conviction before a Justice of the Peace incur a penalty of not exceeding ten dollars for each offence.

Penalty for placing the words "Post Office" on house, &c., without authority.

78. Any bond or instrument of guarantee which may, after the passing of this Act, be given and executed to Her Majesty by any person or body corporate, and whether under the Act of

Bonds by sureties for officials of Post Office Depart-

ment may include losses of mail matter by their crime or neglect.
31 V., c. 37.

Suit upon such bond, and application of money recovered.

Proviso:
Non-liability of Postmaster General, &c.

the Parliament of Canada passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act respecting the security to be given by officers of Canada,*" and the Acts amending the same, or otherwise, as security for the due performance of the duties of his office, by any officer, employee, clerk or servant, employed by or under the Postmaster General, may be expressed to extend to and include as a breach of the conditions thereof, any theft, larceny, robbery, embezzlement, loss or destruction by such officer, employee, clerk or servant, or through his malfeasance, misfeasance or neglect of duty, of any money, goods, chattels, valuables and effects, or of any letter or parcel containing the same, which may come into his custody or possession as such officer, employee, clerk or servant, and although the same may not belong to the Crown, and the Postmaster General may not be liable for the loss thereof; and Her Majesty may, upon such bond or instrument of guarantee, proceed for, demand and recover the amount or value of any such money, goods, chattels, valuables and effects not otherwise recovered by or for the parties entitled to the same, to the amount of the penalty stipulated in such bond or instrument, and upon the recovery and receipt of the same the Postmaster General shall apportion and pay the same to or amongst such person or persons as he may determine to be the owner of or otherwise entitled to receive any such money, goods, chattels, valuables and effects, or the equivalent or value thereof: But nothing herein contained shall be held to create any liability on the part of Her Majesty or the Postmaster General, to any person or parties whomsoever, to indemnify or hold harmless, pay or reimburse such person or party for the loss of any such money, goods, chattels, or valuables and effects, except as herein expressly provided.

PROCEDURE, CRIMINAL AND CIVIL.

Venue, &c., in cases of indictable offences against this Act.

79. Any indictable offence against this Act may be dealt with, indicted and tried and punished, and laid and charged to have been committed either in the district or county or place where the offence is committed, or in that in which the offender is apprehended or is in custody, as if actually committed therein;

Venue, &c., in cases of offences committed in respect of mails, &c., in transit.

2. And where the offence is committed in or upon, or in respect of a mail, or upon a person engaged in the conveyance or delivery of a post letter bag, or post letter, or chattel or money or valuable security sent by post, such offence may be dealt with and inquired of, tried and punished and charged to have been committed as well within the district, county or place in which the offender is apprehended or is in custody, as in any district, county or place through any part whereof such mail, person, post letter bag, post letter, chattel, money or valuable security, passed in the course of conveyance and delivery by the post, in the same manner as

if it had been actually committed in such district, county or place;

3. And in all cases where the side or centre or other part of a highway, or the side bank, centre or other part of a river or canal, or navigable water, constitutes the boundary between two districts, counties or places, then to pass along the same, shall be held to be passing through both ;

As to roads, rivers, &c., forming boundaries.

4. And every accessory before or after the fact, if the offence be felony,—and every person aiding or abetting or counselling or procuring the commission of any offence if the same be a misdemeanour,—may be dealt with, indicted, tried and punished as if he were a principal, and his offence may be laid and charged to have been committed in any district, county or place, where the principal offence might be tried.

Accessories and abettors and their offences may be dealt with and laid and charged in like manner as principals and their offences.

80. In every case where an offence is committed in respect of a post letter bag, or a post letter or other mailable matter, chattel, money or a valuable security, sent by post, in the indictment to be preferred against the offender, the property of such post letter bag, post letter, or other mailable matter, chattel, money or valuable security, sent by post, may be laid in the Postmaster General ; and it shall not be necessary to allege in the indictment, or to prove upon the trial or otherwise, that the post letter bag, post letter, or other mailable matter, chattel, or valuable security was of any value ;

Property of any mailable matter sent by post, may be laid in the Postmaster General.

Value need not be alleged or proved.

2. But except in the cases aforesaid, the property of any chattel or thing used or employed in the service of the Post Office, or of monies arising from duties of postage, shall be laid in Her Majesty, if the same be the property of Her Majesty, or if the loss thereof would be borne by the Dominion, and not by any party in his private capacity ;

Property of other things and of postage money to be laid in Her Majesty.

3. And in any indictment against any person employed in the Post Office of Canada, for any offence against this Act, or in any indictment against any person for an offence committed in respect of some person so employed, it shall be sufficient to allege that such offender or such other person as aforesaid was employed in the Post Office of Canada at the time of the commission of such offence, without stating further the nature or particulars of his employment.

General allegation of employment of accused in the Post Office of Canada, sufficient.

81. The Postmaster General (subject always to the orders of the Governor) may compromise and compound any action, suit or information at any time commenced by his authority or under his control, against any person for recovering any pecuniary penalty incurred under this Act, on such terms and conditions as he in his discretion thinks proper, with full power to him or any of the officers and persons acting under his orders, to accept the penalty so incurred or alleged to be incurred, or any part

Postmaster General may compromise any action, &c.

thereof, without action, suit or information brought or commenced for the recovery thereof.

Penalties to be recoverable with costs, by the Postmaster General, and to belong to the Crown.

82. All mere pecuniary penalties imposed by this Act, or by any regulation of the Postmaster General to be made under it, shall be recoverable with costs by the Postmaster General, by civil action in any court having jurisdiction to the amount, and shall belong to the Crown, saving always the power of the Governor in Council to allow any part or the whole of such penalty to the officer or party by whose information or intervention the same has been recovered, as in the case of penalties recovered under other laws relating to the collection of the revenue; but all such penalties shall be sued for within one year after they are incurred, and not afterwards;

Limitation of actions for penalties.

Penalty \$40, or under, recoverable before one Justice of the Peace

2. Provided that if the penalty do not exceed forty dollars it may be recovered before any one Justice of the Peace in a summary manner, and if not paid, may be levied by distress under warrant of such justice; and if the penalty exceeds forty dollars, the offender may be indicted for a misdemeanour in contravening the provisions of this Act, or of the regulations made under it (instead of being sued for such penalty), and if convicted, shall be punishable by fine or imprisonment, or both, in the discretion of the court.

If penalty exceed \$40, offender may be indicted for a misdemeanour instead.

Penalty recoverable on oath of a witness,—who may be a Postmaster or other officer, &c., of the Post Office.

83. In any action or proceeding for the recovery of postage, or of any penalty under this Act, the same may be recovered on the evidence of any one credible witness, and any Postmaster or other officer or servant of the Post Office of Canada shall be a competent witness, although he is entitled to or entertains reasonable expectation of receiving some portion or the whole of the sum to be recovered; and the *onus* of shewing that anything proved to have been done by the defendant was done in conformity to or without contravention of this Act, shall lie upon the defendant.

In action against Postmaster or other officer of the Post or his sureties, amount due may be proved by statement of account attested by accountant of the Post Office.

84 In any action, suit or proceeding against any Postmaster or other officer of the Post Office of Canada, or his sureties, for the recovery of any sum of money alleged to be due to the Crown as the balance remaining unpaid of moneys received by such Postmaster or officer by virtue of his office, a statement of the account of such Postmaster or officer showing such balance and attested as correct by the certificate and signature of the Accountant of the Post Office of Canada, or of the officer then doing the duties of such Accountant, shall be evidence that such amount is so due and unpaid as aforesaid; and in every such suit it shall be lawful to demand and the judgment shall be rendered for double the amount proved by such account to be so due to the Crown by the defendant; but nothing herein contained shall be construed to prevent the provisions of any "*Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants,*" from applying to such Postmaster or officer.

Revenue Management Act to apply, 31 V., c. 5.

85. All suits, proceedings, contracts and official Acts to be brought, had, entered into or done by the Postmaster General, shall be so in and by his name of office, and may be continued, enforced and completed by his successor in office as fully and effectually as by himself; nor shall the appointment or authority of any Postmaster General of Canada, or of any Postmaster, officer or servant of the Post Office of Canada, be liable to be traversed or called in question, in any case, except only by those who act for the Crown;

Suits, &c., by the Postmaster General to be brought in his name of office, and may be continued, &c., by his successor.

2. And all suits to be commenced for the recovery of debts or balances due to the Post Office, whether they appear by bond or obligation, made in the name of the existing or any preceding Postmaster General, or otherwise, shall be instituted in the name of "The Postmaster General."

Suits for debts, &c., to be in the name of the Postmaster General.

PROTECTION OF OFFICERS.

86. All enactments of any "*Act respecting the Customs*," and more especially of the provisions for protecting officers and others employed in collecting duties, or in preventing the evasion of the laws imposing duties, when in the performance of the duties of their office, or in respect of suits or proceedings against them for things done or alleged to be done in pursuance of any law, shall extend and apply in like manner to officers and persons employed in or under the Post Office of Canada, and to suits or proceedings against them for things done or alleged to be done under this Act.

Certain provisions of Customs Duties Acts to extend to officers of the Post Office.

COMMENCEMENT OF THIS ACT.

87. The foregoing sections of this Act shall come into force and effect on the first day of October, in the present year one thousand eight hundred and seventy-five, except only in so far as they relate to the rates of postage on newspapers and periodicals sent to the United States, as to which they shall come into force on the first day of May now next; and upon, from and after the said first of October, the Act passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act for the regulation of the Postal Service*," shall be repealed, except in so far as respects any appointment made, any postage accrued and unpaid, any bond or security given, obligation incurred, or right acquired, or any penalty, forfeiture or liability incurred under, or any offence committed against the said Act, or any other thing done before the day last aforesaid,—with respect to all which the said Act shall remain in force and apply and have effect as if this Act had not been passed; and this Act shall be construed not as a new law, but as a continuation of the Act last cited, subject to the amendments hereby made and incorporated with it.

Commencement of Act, 1st Oct., 1875.

Exception.

Repeal of 31 V. c. 10; Saving clause.

10. AGRICULTURE.

31 VICT. CAP. 53.

An Act for the Organization of the Department of Agriculture.

[Assented to 22nd May, 1868.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Department of Agriculture ; Minister of Agriculture.

1. There shall be a Department, called “The Department of Agriculture,” over which the Minister of Agriculture, for the time being, appointed by Commission under the Great Seal, shall preside; and the said Minister shall have the management and direction of the Department, and shall hold office during pleasure.

Deputy Minister and staff.

2. The Governor may appoint a Deputy of the Minister of Agriculture, and such other officers and clerks as may be required for the proper conduct of the business of the Department, all of whom shall hold office during pleasure.

Powers and duties of Deputy.

3. It shall be the duty of the said Deputy, and he shall have authority (subject always to the Minister) to oversee and direct the other officers and servants of the Department; he shall have the general control of the business of the Department, and such other powers and duties as may be assigned to him by the Governor in Council, and in the absence of the Minister and during such absence may suspend from his duties any officer or servant of the Department who refuses or neglects to obey his directions as such Deputy.

May suspend officers.

Duties and powers of Minister.

4. The duties and powers of the Minister of Agriculture shall extend to the execution of laws enacted by the Parliament of Canada, and of orders of the Governor in Council, relating to the subjects enumerated in the following section, as well as to the direction of all public bodies, officers and servants employed in the execution of such laws and orders.

Subjects under control of Department.

5. The following subjects shall be under the control and direction of the Department of Agriculture, viz.:

1. Agriculture;
2. Immigration and Emigration;

3. Public Health and Quarantine ;
4. The Marine and Emigrant Hospital at Quebec ;
5. Arts and Manufactures ;
6. The Census, Statistics and the Registration of Statistics ;
7. Patents of Invention ;
8. Copyright ;
9. Industrial Designs and Trade Marks.

6. The Governor in Council may at any time assign any other duty or power to the Minister of Agriculture, and may also assign any of the duties or powers hereinbefore enumerated to any other Member of the Privy Council of Canada.

Governor in Council may vary duties and powers.

7. The Minister of Agriculture shall make and submit to the Governor an annual report of the proceedings of his Department to be laid before both Houses of Parliament within twenty-one days from the commencement of each session.

Annual Report to be laid before Parliament.

8. The Act of the Legislature of the late Province of Canada, passed in the twenty-fifth year of Her Majesty's Reign, chapter seven, is hereby repealed, and all laws or parts of laws inconsistent with this Act, in so far as they are inconsistent herewith, are also repealed.

Act of Canada, 25 V. c. 7, &c., repealed.

32-33 VICT. CAP. 10.

An Act respecting Immigration and Immigrants.

[Assented to 22nd June, 1869.]

WHEREAS the concurrent jurisdiction given to Canada and to the Provinces by the 95th section of the British North America Act 1867, is, according to arrangements arrived at by the different governments concerned, to be exercised as follows : namely—the Canada Government to maintain an Immigration Office at London, in England, and to have other Offices in the United Kingdom as it may think proper, from time to time ; and to maintain one Immigration Agency on the Continent of Europe, and have other similar agencies, as it may think proper, from time to time ; and to maintain Quarantine Stations at Halifax, St. John (New Brunswick) and Grosse

Preamble.

Recital of arrangements between the Dominion and the Provinces.

Ile ; and to maintain Immigration Offices at Quebec, Montreal, Kingston, Toronto, Hamilton, Ottawa, Halifax, St. John (New Brunswick), and wherever else it may deem necessary ;—the Provincial Governments to determine their policy concerning the settlement and colonization of uncultivated lands, as bearing on Immigration ; and to appoint agents in Europe and elsewhere as they may think proper, who shall be duly accredited by the Canada Government, and also agents in their own Provinces ; and to furnish respectively all information and documents connected with Immigration and the colonization of their unsettled lands, and transmit the same to the Department of Agriculture or to the Agents of Canada in Europe ; conferences of delegates of the Canadian and Provincial Governments to be convened, from time to time, at the office of the Minister of Agriculture, by the Governor in Council, at the request of one or more of the Provincial Governments or without such request ; and Canadian Immigration Agents to use as directed any sum or sums of money handed to them by any Local Government, for the purpose of procuring either food, clothing, transport or other help to Immigrants intending to settle within the territory of the Province having furnished such sum or sums : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Where immigration offices shall be maintained.

1. Immigration Offices shall be maintained at London, in England, and elsewhere in the United Kingdom, as to the Governor in Council may seem proper from time to time, and also at Quebec, Montreal, Kingston, Toronto, Hamilton, Ottawa, Halifax, Saint John (New Brunswick), and elsewhere in Canada, as to the Governor in Council may seem proper from time to time ; and an Immigration Agency or as many Immigration Agencies as to the Governor in Council may seem proper from time to time, shall be maintained on the Continent of Europe ; and Quarantine Stations shall be maintained at Halifax, St. John (New Brunswick) and *Grosse Ile* ; and Canadian Immigration Agents shall use as directed any sum or sums of money granted to them by any Local Government for the purpose of procuring either food, clothing, transport or other help to Immigrants intending to settle within the territory of the Province having furnished such sum or sums.

Quarantine stations.

IMMIGRANTS—DUTY PAYABLE ON THEM.

Capitation duty payable by Masters of vessels bringing passengers.

2. There shall be raised, levied and collected, a duty payable in the manner hereinafter prescribed by the master of every Vessel arriving in any Port in Canada from any Port in the United Kingdom or in any other part of Europe, with Passengers or Immigrants therefrom, and such duty shall be one dollar for every Passenger or Immigrant above the age of one year, who embarked from any Port in the United Kingdom under the sanction of Her Majesty's Government, ascertained by a certifi-

cate from one of the Officers of Her Majesty's Customs at the Port at which such Vessel cleared, or from any other Port in Europe with the sanction of the Government of the Country to which such Port belongs, ascertained by certificate of the proper authority at such Port,—and one dollar and fifty cents for every Passenger or Immigrant who embarked without such sanction.

By 35 V. c. 28, sec. 1, page 619 post, the duty mentioned in the above section is repealed and a new duty imposed.

2. The said duty shall be paid by the master of such Vessel, or by some person on his behalf, to the Collector of Customs at the Port in Canada at which such Vessel is first entered, and at the time of making such first entry, which shall contain on the face of it the number of Passengers actually embarked on board the Vessel; and no such entry shall be deemed validly made or have any legal effect whatsoever, unless such rates or duties are so paid as aforesaid; but no child under the age of one year shall be reckoned among the number of Passengers;

How such
duty shall be
paid.

3. Any draft, order or other document made or signed by any person in the United Kingdom aforesaid, duly empowered to that effect by Her Majesty's Government, and directed to Her Majesty's Commissary General or other Commissariat Officer in Canada, and authorizing the payment to the Collector of Customs aforesaid, of the duty which would otherwise be payable by the Master of any Vessel for any number of Immigrants on board such Vessel, shall be accepted by the Collector as payment of the duty payable on such Immigrants, and the sum mentioned in such order shall thereafter be received by such Collector and paid over and applied in the same manner as other money raised under the authority of this Act;

Commissariat
drafts to be
accepted in
payment of
duty.

4. Nothing in this section shall be construed to authorize the raising, levying or collecting, or to require the payment of, any rate or duty in respect of any passenger or immigrant on board of any vessel entered at any port in the Dominion, other than such as are to be landed in Canada.

Exception as
to passengers
not landed in
Canada.

IMMIGRANTS.—PROPORTION OF PASSENGERS TO SIZE OF VESSEL.

3. If any Vessel from any Port or place on the Continent of Europe, or from any other Port or place out of Her Majesty's Dominions, come within the limits of Canada, having on board or having had on board at any time during her voyage, any greater number of Passengers than one Adult Passenger for every twelve clear superficial feet on the lower or platform deck of such Vessel, appropriated to the use of such Passengers and unoccupied by stores or other goods not being the personal luggage of such Passengers, or having on board or having had on board at any time during her voyage a greater number of

Proportion of
passengers to
superficial
area of lower
deck of vessel.

persons, (including the Master and Crew and the cabin Passengers, if any,) than in the proportion of one person for every two tons of the tonnage of such Vessel, calculated in the manner used for ascertaining the tonnage of British Ships, the Master of such Vessel shall thereby incur a penalty of not less than eight dollars nor more than twenty dollars for each Passenger or person constituting such excess ;

Penalty for
contravention.

Definition of
" adult."

2. For the purposes of this section, each person of or above the age of fourteen years shall be deemed an Adult, and two persons above the age of one year and under the age of fourteen years, shall be reckoned and taken as one Adult.

IMMIGRANTS.—OBLIGATIONS OF MASTERS OF VESSELS BRINGING THEM.

Recital.

Penalty for
carrying pas-
sengers not
entered on list.

4. And whereas Masters of Vessels are in the practice of embarking Passengers after the Vessel has been cleared and examined by the proper Officer at the Port of departure, and without delivering lists of such additional Passengers to some Officer to whom by law the same ought to be delivered ; for the prevention and punishment of such practice : For every Passenger not included in the list of Passengers by any Vessel sailing from a Port in Her Majesty's Dominions, delivered to the Collector of Customs at the Port of Departure, or at the Port where such additional Passenger was embarked, or at the Port at which such Vessel touched after the embarkation of such Passenger, the Master of such Vessel shall, in addition to the duty payable as aforesaid, and at the same time and under the same penalties, pay to the Collector of Customs at the Port in Canada at which the said Vessel is first entered, the sum of eight dollars for each Passenger so embarked as aforesaid, and not included in one of the said lists.

Master not to
allow passen-
gers to leave
vessel until
list has been
delivered.

Penalty for
contravention.

5. No Master of any Vessel arriving at any Port in Canada shall permit any Passenger to leave the Vessel until he has delivered to the Collector of Customs at the Port, a certified and correct Passenger list in the form hereinafter mentioned, nor until such list has been certified to be correct and a certificate of such correctness and a permission to allow his Passengers to leave the Vessel, and a receipt for the duties payable by him under the provisions of this Act, has been given to him by the Collector of Customs, under a penalty of not less than twenty dollars and not exceeding one hundred dollars, to be paid by the Master of the Vessel, for every Passenger leaving the same contrary to the provisions of this Act ;

What the list
shall contain.

2. The said list shall contain the name of each head of a family being a Passenger on board the Vessel, his profession or trade, his country and the place of his destination, and the number of adult persons and children belonging to his family on board such Vessel, and the name of each person not belonging to any family, with the like particulars of country, trade, profession and destination.

6. Nothing in this Act shall prevent the Master of any Vessel from permitting any Passenger to leave the Vessel at the request of such Passenger before the arrival of the Vessel at her final Port of destination ; but in every such case, the names of the Passengers so leaving shall be entered in the manifest on the list of Immigrants made out at the time of the clearing of the Vessel from the United Kingdom or other part of Europe as aforesaid, and shall be certified under the signatures of the Passengers so leaving the Vessel ; And if the number of Passengers remaining on board on the arrival of the Vessel at her final Port of destination does not correspond with that mentioned in such manifest, after deducting the number who have so left the Vessel, the Master thereof shall incur a penalty of twenty dollars for each Passenger not found on board or entered on the manifest as having left the Vessel as aforesaid.

Entry to be made when a passenger leaves the vessel before her arrival in port.

Penalty for contravention.

7. Every Pilot who has had charge of any Vessel having Passengers on board, and knows that any Passenger has been permitted to leave the Vessel contrary to the provisions of this Act, and who does not within twenty-four hours after the arrival of such Vessel in the harbour to which he engaged to pilot her, inform the Collector of Customs thereat, that a Passenger or Passengers has or have been so permitted to leave the Vessel, shall incur a penalty not exceeding five dollars, for every Passenger with regard to whom he has wilfully neglected to give such information.

Duty of Pilot to report infringement of this Act.

Penalty.

REPORT BY THE MASTER.

8. The Master of any Passenger Vessel shall, within twenty-four hours after such Vessel arrives at her final Port of destination, and before any entry of such Vessel shall be allowed, deliver to the Collector of Customs at the Port at which such Vessel is entered, a correct Report in the form of the Schedule A to this Act, of all the Passengers on board such Vessel at the time of her departure from the Port or place whence she cleared or sailed for Canada, and a true statement of the other particulars mentioned in the said form, under a penalty upon such Master of twenty dollars for each day during which he neglects so to deliver such list, after the expiration of the said twenty-four hours, and of eight dollars for each Passenger whose name is omitted in such list.

Master of vessel to deliver report of passengers.

Penalty.

By 35 V. c. 28 sec. 14, page 622 post, the Schedule A originally attached to this Act was repealed and a new Schedule substituted.

9. In addition to the particulars hereinbefore required in the list of Passengers to be delivered on each voyage by the Master of any Vessel carrying Passengers and arriving at any Port in Canada to the Collector of Customs at such Port, the Master shall report in writing to the Collector the name and age of all Passengers embarked on board of such Vessel on such voyage, who

Other particulars to be entered in report.

are lunatic, idiotic, deaf or dumb, blind or infirm, stating also whether they are accompanied by relatives able to support them ;

Penalty for
contravention.

2. And if any Master of any such Vessel omits to report the particulars herein specified, or makes any false report in any such particulars, he shall incur a penalty of not less than twenty dollars and not exceeding one hundred dollars, for every such Passenger in regard to whom any such omission has occurred or any such false report is made, for which penalty the owner or owners of the Vessel shall also be liable jointly and severally.

Entry as to
passengers
who have
died.

10. The said report shall further contain the name, age and last place of residence of any person who has died during the passage of the Vessel, and shall specify whether such Passenger was accompanied by relatives or other persons, and the names of such relatives or other persons, who were entitled to take charge of the moneys and effects left by such Passenger ; and if there were no such relatives or other persons entitled to take charge of the same, then the report shall fully designate the quantity and description of the property (whether money or otherwise) left by such Passenger ; and the said Master shall pay over and fully account for the same to the Collector of Customs for the Port at which the Vessel is entered ;

Disposal of
property.

Collector of
Customs to
give receipt.

2. The Collector of Customs shall thereupon grant to such Master a receipt for all moneys or effects so placed in his hands by the Master, which receipt shall contain a full description of the nature or amount thereof ; and if any Master of a Vessel shall neglect or refuse to make such report, or to pay over and account for any such moneys or effects, as required by this section, he shall incur a penalty of not less than twenty dollars and not exceeding one thousand dollars for every such case of neglect or refusal.

Penalty for
neglect or
refusal to
make report.

SPECIAL DUTY OF QUARANTINE OFFICERS.

Duty of Medi-
cal Superin-
tendent.

11. The Medical Superintendent of any Quarantine Station shall forthwith after the anchoring thereat, in compliance with the requirements of "*The Quarantine and Health Act of 1868,*" of any Vessel carrying Passengers, examine into their condition, and for that purpose the said Medical Superintendent, or other competent person thereunto appointed, may go on board and through any such Vessel and inspect the list of Passengers, and the Bill of Health, Manifest, Log Book or other papers of the Vessel, and, if necessary, take extracts from the same.

By 35 V. c. 28, sec. 3, page 619 post, the words "Any Quarantine Act or Regulation then in force" are substituted for the words "The Quarantine and Health Act of 1868."

Presence of
any lunatic or

2. If, on examination, there is found among such Passengers any Lunatic, Idiotic, Deaf and Dumb, Blind or Infirm Person,

not belonging to any Immigrant family, and such person is, in the opinion of the Medical Superintendent, likely to become permanently a public charge, the Medical Superintendent shall forthwith report the same officially to the Collector of Customs at the Port at which the Vessel is to be first entered, who shall (except in the cases in which it is hereinafter provided that such bond may be dispensed with) require the Master of the Vessel, in addition to the duty payable for the Passengers generally, to execute, jointly and severally with two sufficient sureties, a Bond to Her Majesty in the sum of three hundred dollars for every such Passenger so specially reported, conditioned to indemnify and save harmless the Government of Canada or of any Province in Canada, or any Municipality, Village, City, Town or County, or charitable institution within the same, from any expense or charge to be incurred within three years from the execution of the Bond, for the maintenance and support of any such Passenger ;

idiotic person,
&c., to be
reported.

Subsequent
proceedings.

Bond to be
given.

3. The said sureties shall justify before and to the satisfaction of the said Collector, and by their Oath or Affirmation (which such Collector may administer) shall satisfy him that they are respectively residents in Canada, and each worth double the penalty of such Bond over and above all their debts and liabilities, personal and real ;

Nature of
sureties.

4. It shall be optional with the Master of such Vessel either to enter into such Bond jointly and severally with sufficient sureties, as aforesaid, or to pay to the Collector of Customs who might otherwise require such Bond, such sum as may have been fixed in that behalf by any instructions from the Government of Canada, as being just and equitable and sufficient to indemnify Canada, or any of the Provinces, or any Municipality, Village or City, Town or County, or Charitable Institution within Canada, against the risk of expense for the care, support and maintenance of such Passenger or Passengers during the then next ensuing three years ;

Master may
pay over a
certain sum
instead of
giving secu-
rity.

5. And the Collector of Customs may dispense with such bond, or money in lieu thereof, if it appears by the certificate of the Medical Superintendent at the proper Quarantine Station (which certificate the said Medical Superintendent may give) that the Passenger with respect to whom such bond or money is required has become lunatic, idiotic, deaf and dumb, blind or infirm, from some cause not existing or discernible at the time of the departure of the ship from the port where such Passenger embarked.

When bond or
payment may
be dispensed
with.

12. The proper Agent for Immigration may, with the consent of the Minister of Agriculture, make arrangements with the Master, Owner or Charterer of the vessel carrying the lunatic, idiotic, deaf and dumb, blind or infirm person with respect to whom a bond has been given, or money paid in lieu thereof, or with the

Arrangement
for sending
back such
persons.

Master, Owner or Charterer of any other vessel, for the reconveyance of such person to the port from which he was carried to Canada ;

Money paid in lieu of bond may be applied to such reconveyance.

2. Money paid in lieu of or on breach of the condition of a Bond in any such case, or so much thereof as is necessary, may be applied to pay for such reconveyance of the person with respect to whom it has been paid, and when such person has been so reconveyed, the Bond so given may be cancelled, or the money paid in lieu thereof (deducting the passage money, if any) may be returned, on the receipt by the said Agent for Immigration of a certificate of the safe arrival of the lunatic, idiotic, deaf and dumb, blind or infirm person at the port from which he was brought as aforesaid, under the hand of the Chief Emigration Officer or British Consul there, or on proof satisfactory to such Agent for Immigration of his having died during the voyage without any fault attaching to the Owner, Master or any of the Crew of such vessel.

Proceedings if such person becomes chargeable upon Canada, &c.

13. If any Passenger, in respect to whom any Bond has been given as aforesaid, becomes at any time within three years from the execution thereof, chargeable upon Canada, or upon any Province, Municipality, Village, City, Town or County, or upon any Charitable Institution within Canada, the payment of such charge or expense incurred for the maintenance and support of such Passenger shall be provided for out of the moneys collected on and under such Bond, to the extent of the penalty therein contained, or such portion thereof as is required for the payment of such charges or expenses.

Penalty for neglect or refusal to execute bond.

14. If the Master of any vessel, on board which such Passenger specially reported as aforesaid has been carried, neglects or refuses to execute the said Bond, or to pay the sum which he may pay instead of giving such Bond, forthwith after the said ship has been reported to the Collector of Customs, such Master shall incur a penalty of four hundred dollars, and the said Vessel shall not be cleared on her return voyage until the said Bond has been executed or the said sum paid, nor until the said penalty has been paid with all costs incurred on any prosecution for the recovery thereof.

How such bond shall be disposed of.

15. After any such Bond as aforesaid has been executed, the Collector of Customs shall transmit the same to the Receiver General of Canada, to be by him kept and held, during the said period of three years from the execution of the said Bond, or until the payment of the penalty therein mentioned (if incurred) has been enforced ;

Necessity of enforcing bond—how ascertained.

2. For the purpose of ascertaining the necessity of such enforcement, the Immigration Agents, upon representation made to either of them, in their respective portions of Canada, shall ascertain the right and claim to indemnity for the maintenance

and support of any such specially reported Passenger, and shall report the same to the Governor through the Minister of Agriculture, and the said Report shall be final and conclusive in the matter, and shall be evidence of the facts therein stated ;

3. And the said penalty, or so much thereof as is sufficient from time to time to defray the expense incurred for the maintenance and support of any Passenger for whom the said Bond was given as aforesaid, shall be prosecuted for and recovered by suit or information in Her Majesty's name, in any Court in Canada having jurisdiction in civil cases to the amount for which such suit or information is brought.

Penalty to be
sued for.

PAUPER IMMIGRANTS.

16. The Governor may, by proclamation, whenever deemed necessary, prohibit the landing of pauper or destitute Immigrants in all Ports or any Port in Canada, until such sums of money as may be found necessary are provided and paid into the hands of one of the Canadian Immigration Agents, by the Master of the Vessel carrying such Immigrants, for their temporary support and transport to their place of destination; and during such time as any such pauper Immigrants would, in consequence of such orders, have to remain on board such Vessel, the Governor may provide for proper anchorage grounds being assigned to such Vessel, and for such Vessel being visited and superintended by the Medical Superintendent or any Inspecting Physician of the Port or Quarantine Station, and for the necessary measures being taken to prevent the rise or spread of diseases amongst the passengers in such Vessel and amongst people on shore.

Landing of
pauper or des-
titute immi-
grants may be
prohibited.

PROVISIONS FOR THE PROTECTION OF PASSENGERS.

17. Every Passenger on board any Vessel arriving in the Port or Harbour to which the Master of such Vessel engaged to convey him, shall be entitled to remain and keep his luggage on board such Vessel during forty-eight hours after her arrival in such Port or Harbour; and every such Master who compels any Passenger to leave his Vessel before the expiration of the said term of forty-eight hours shall incur a penalty of not exceeding twenty dollars for every passenger he so compels to leave his Vessel, nor shall the Master of the Vessel remove, before the expiration of the said forty-eight hours, any berthing or accommodation used by his Passengers, under a like penalty, except with the written permission of the Medical Superintendent at the proper Quarantine Station.

Passengers to
be entitled to
remain on
board forty-
eight hours
after arrival in
port.

Penalty for
contravention.

18. The Master of any Vessel having passengers on board, shall land his Passengers and their luggage free of expense to the said Passengers, at the usual Public Landing Places in the Port of arrival, according to orders which he may receive from the authorities of the said Port, and at reasonable hours—not

Pas-engers
and luggage to
be landed free
of expense.

earlier than six of the clock in the morning, and not later than *four* of the clock in the afternoon; and the Vessel shall, for the purpose of landing Passengers and luggage, be anchored in such convenient and safe place, or moored at such wharf as may be appointed for that purpose by the authorities of the Port.

By 35 V. c. 28, sec. 2, page 619 post, the hour of six o'clock in the afternoon is substituted for the hour of four o'clock in the afternoon, in this section and the next.

Governor may
appoint land-
ing places.

19. The Governor in Council may, by proclamation, from time to time, appoint the place at which all Immigrants and Passengers arriving at any Port in Canada, other than such as may be specially excepted in such proclamation, shall be landed, and may, in and by such proclamation, make such regulations as he shall think proper, for the government of the place so appointed, and for the protection of the immigrants landed thereat, and such proclamation being published at least twice in the *Canada Gazette*, with an interval of at least six days between each publication, shall have the force of law, and shall be in force until suspended by a later proclamation for the like purpose, published as aforesaid; and at the place so appointed the Governor may cause proper shelter and accommodation to be provided for Immigrants until they can be forwarded to their place of destination; and any contravention of any such proclamation as aforesaid, or of any regulation therein contained, shall be deemed a contravention of this Act;

Regulation as
to the landing
of passengers.

2. The Master of any Vessel arriving in any Port in Canada and having on board the same any Immigrants or Passengers to whom any such proclamation as aforesaid then in force shall apply, shall land such Immigrants or Passengers and their luggage free of expense at the place so appointed, and at reasonable hours, not earlier than six in the morning nor later than *four* in the afternoon, and the vessel shall, for the purpose of landing such Immigrants or Passengers and their luggage, either be moored at the wharf at the place appointed for such landing, or anchored in the Port; and the Masters of such Vessels, so anchored, shall duly land, within the hours aforesaid, by steam tug, or other proper tender, their passengers at such wharf as aforesaid, and not elsewhere, under a penalty of forty dollars for each offence against the provisions of this section or the next preceding section.

Penalty for
contravention.

See note to last section.

Penalty for
breach of law
or contract by
master of ves-
sel, with res-
pect to foreign
immigrants.

20. And for the purpose of securing to Foreign Immigrants, coming to Canada, the observance towards them during the voyage of the laws of the Country from which they are conveyed hither,—if during the voyage of any Vessel carrying Passengers or Immigrants from any Port not within the United Kingdom

to any Port in Canada, the Master or any of the crew of such vessel are guilty of any infraction of the laws in force in the country in which such Foreign Port is situate, regarding the duties of such Master or crew towards the Passengers in such Vessel,—or if the Master of any such Vessel do during such voyage commit any breach whatever of the contract for the passage made with any Passenger or Immigrant by such Master, or by the Owner or Charterer of such vessel, or any person acting on his behalf,—such Master or such one of the crew shall for any such offence be liable to a penalty of not less than twenty dollars nor more than one hundred dollars, independently of any remedy which the party complaining otherwise has by law.

21. Proof under this Act of the law of a Foreign Country may be made by the testimony of any Consul for the Country from which the vessel sailed; and the proof of the contract for his passage made by any such Immigrant in any such vessel sailing from any European Port not within the United Kingdom, may be made in all cases by the evidence of the parties to such contract.

Proof, how made in such case.

22. No person shall, at any port or place within Canada, for hire, reward or gain, or the expectation thereof, conduct, solicit, or recommend, either orally or by handbill or placard, or in any other manner, any Immigrant, to or on behalf of any steamboat owner or charterer, or to or on behalf of any Railway Company, or to or on behalf of any lodginghouse-keeper or tavern-keeper, or any other person, for any purpose connected with the preparations or arrangements of such Immigrant for his passage to his final place of destination in Canada or in the United States of America or the territories thereof; or give or pretend to give to such Immigrant any information, oral, printed or otherwise, or assist him to his said place of destination, or in any way exercise the vocation of booking passengers or taking money for their inland fare or for the transportation of their luggage, unless such person has first obtained a license from the Mayor of the City or municipality in Canada within which such person resides, authorizing him to act in such capacity; and any person so acting without having first obtained such license, shall, upon every conviction, incur a penalty of not less than fifty dollars;

Soliciting and recommending immigrants as to lodgings, routes, etc. prohibited, except by licensed persons.

Penalty.

2. Such Mayor may grant such license on such person producing a recommendation from the Government Immigration Agent nearest to the place where the license is granted, to the effect that he is a proper person to receive such license, and on his giving a satisfactory bond to the Mayor, with two sufficient sureties in the penal sum of three hundred dollars, as security for his good behaviour; and such license shall not be for any period longer than one year from its date; and such person shall pay for such license to the Corporation of such City or

License, how obtained; duration and cost.

Municipality such sum, not exceeding one hundred dollars, as the Mayor and Council shall determine.

Lists of prices
to be display-
ed in taverns,
etc.

23. Every keeper of a Tavern, Hotel or Boarding-house in a City, or in any Town, Village or place to which the Governor, by Proclamation published in the *Canada Gazette*, declares that this section shall extend, who receives into his house, as a Boarder or Lodger, any Immigrant within three months from his arrival in Canada, shall cause to be kept conspicuously posted in the public rooms and passages of his house, and printed upon business cards, a list of the rates of prices which will be charged to Immigrants per day and week for board or lodging, or both, and also the rates for separate meals, which card shall contain the name of the keeper of such house, together with the name of the street in which it is situated, and its number in such street;

Penalty for
contravention.

2. Every keeper of any such Tavern, Hotel or Boarding-house, neglecting or refusing to post a list of rates, or to keep business cards, or charging or receiving, or permitting or suffering to be charged or received for boarding or lodging, or for meals in his house, any sum in excess of the rates or prices so posted and printed on such business cards, or omitting immediately on any Immigrant entering such house as a boarder or lodger for the purpose of taking any meal therein, to deliver to such Immigrant one of such printed business cards, shall, upon conviction of any of the said offences, be deprived of his license and incur a penalty of not less than five dollars nor more than twenty dollars;

Boarding-
house keeper,
&c., not to
have lien on
immigrants'
goods beyond
five dollars.

3. And no such Boarding-house Keeper, Hotel Keeper, or Tavern Keeper shall have any lien on the effects of such Immigrant for any amount claimed for such board or lodging, for any sum exceeding five dollars; and any such person detaining the effects of any immigrant after he has been tendered the said sum of five dollars or such less sum as is actually due for board or lodging, shall, on conviction thereof, incur a penalty of not less than five dollars, or more than twenty dollars, over and above the value of the effects so detained, if not immediately restored, and a search warrant may be issued for the same.

RECOVERY OF DUTIES AND PENALTIES.

Duties, penal-
ties, &c., to be a
lien upon the
vessel.

24. Every duty, penalty or forfeiture, imposed or declared under the authority of this Act, shall be a special lien upon the vessel by reason whereof it has become payable and the master whereof has become liable in such penalty, and may be enforced and collected by the seizure and sale of the vessel, her tackle, apparel and furniture, under the warrant or process of the Justices or Court before whom it has been sued for and recovered and shall be preferred to all other liens or hypothecations except mariners' wages.

25. All prosecutions for penalties under section twenty-three of this Act may be brought at the place where the offender then is, before any Magistrate having jurisdiction in such place, at the suit of any Agent for Immigration in the employ of Her Majesty, in Canada; and the penalties to be recovered under the said section shall be paid into the hands of the Receiver-General, to form part of the Consolidated Revenue Fund of Canada;

Where prosecutions under s. 23 may be brought.

2. The Magistrate before whom any such penalty is recovered may, in his discretion, award any part of the penalty to the party aggrieved by the infraction of law or breach of contract complained of, and may award costs against the offending party, as in the ordinary cases of summary proceedings, and may also award imprisonment for a period not exceeding three months, to terminate on payment of any penalty incurred under the said section.

Magistrate may award part of penalty to party aggrieved.

26. All penalties, other than those referred to in the next preceding section, imposed by this Act, or by any Regulation made by the Governor in Council, under the provisions of this Act, and not exceeding eighty dollars in amount, shall be sued for by any Collector of Customs, or by any Immigration Agent, and recovered with costs on the oath of one credible witness other than the prosecutor, in a summary manner, before any two Justices of the Peace, and such Justices may commit the offender to the Common Gaol until such penalty and costs are paid; and all such penalties exceeding the sum of eighty dollars may be recovered by civil action by any such officer as aforesaid, on like evidence, in any Court of competent jurisdiction;

Penalties under other sections, how recovered.

2. One moiety of every such penalty shall belong to Her Majesty, her Heirs and Successors, and shall be paid into the hands of the Receiver General to form part of the Consolidated Revenue Fund of Canada, and the other moiety shall belong to the prosecutor;

Disposal of penalties.

3. But every offence against the provisions of this Act or any Regulation made under it, the penalty imposed for which by this Act or any such Regulation exceeds the sum of forty dollars, shall be a misdemeanour punishable by fine or imprisonment or both in the discretion of the Court before which the offender is convicted.

When penalty exceeds forty dollars, offence to be misdemeanour.

27. Upon complaint being made before any one Justice of the Peace, in any case over which two Justices have jurisdiction as aforesaid, he shall issue a Summons requiring the party complained against to appear on a day and at an hour and place to be named in such Summons, and every such Summons shall be served on the party offending or complained against, or shall be left at his place of residence or business, or on board any vessel to which he belongs;

Summons to be issued.

2. Either upon the appearance or default to appear of the Proceedings

upon appearance or default.

party complained against, any two or more Justices may proceed summarily upon the case, and either with or without any written information; and upon proof of the offence or of the complainant's claim, either by confession of the party complained against, or upon the oath of at least one credible witness other than the Prosecutor (which oath such Justices may administer), the Justices may convict the offender, and upon such conviction order the offender or party complained against to pay the penalty imposed by this Act, or by any such Regulation as aforesaid, according to the nature of the offence, and also to pay the costs attending the information or complaint;

If moneys are not paid, the same may be levied by distress.

3. If forthwith upon such order the moneys thereby ordered to be paid, are not paid, the same may be levied, with the costs of the distress and sale, by distress and sale of the goods and chattels of the party ordered to pay such moneys, the surplus, if any, to be returned to him upon demand; and any such Justices may issue their warrant accordingly, and may also order such party to be detained and kept in safe custody until return can conveniently be made to such Warrant of Distress, unless such party gives security to the satisfaction of such Justices for his appearance before them on the day appointed for such return, such day not being more than three days from the time of taking such security;

Proceedings if there is no sufficient distress.

4. But if it appears to such Justices, by the admission of such party or otherwise, that no sufficient distress can be had whereon to levy the moneys so adjudged to be paid, they may, if they think fit, refrain from issuing a Warrant of Distress in the case, or if such Warrant has been issued, and upon the return thereof such insufficiency as aforesaid is made to appear to the Justices, or to any two or more of them, then such Justices shall, by Warrant, cause the party ordered to pay such moneys and costs as aforesaid to be committed to Gaol, there to remain without bail for any term not exceeding three months, unless such moneys and costs ordered to be paid and such costs of distress and sale as aforesaid, be sooner paid and satisfied; but such imprisonment of a Master of any Vessel shall not discharge the Vessel from the lien or liability attached thereto by the provisions of this Act.

Conviction or proceeding not to be quashed for want of form, &c.

28. No conviction or proceeding under the four next preceding sections shall be quashed for want of form, or be removed by appeal or *certiorari*, or otherwise, into any of Her Majesty's Superior Courts of Record in Canada; and no Warrant of Commitment shall be held void by reason of any defect therein, provided it be thereby alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

MONEYS LEVIED AND EXPENDED.

Payment of expenses under this Act.

29. All the expenses to be incurred in carrying the provisions of this Act into effect or under the provisions thereof shall

be paid out of any moneys granted from time to time by Parliament for that purpose and for affording help and advice to Immigrants, aiding Destitute Immigrants, visiting and relieving them, procuring medical assistance and otherwise attending to the object of Immigration, as determined by the Parliamentary grants, and by orders of the Governor General for the management of the same.

30. The moneys levied under this Act shall be paid by the Collector of Customs by whom they are received, into the hands of the Receiver General, to form part of the Consolidated Revenue Fund of Canada. Moneys collected, how disposed of.

INTERPRETATION.

31. In this Act, unless there be something in the context inconsistent with such interpretation, the word "Master" shall apply to any person in command of a Vessel; the word "Vessel" shall include all Ships, Vessels, or Craft of any kind carrying Passengers; the word "Passengers" shall apply to all Passengers as well as to Immigrants usually and commonly known and understood as such, but not to Troops or Military Pensioners and their families, who are carried in Transports or at the expense of the Imperial Government. Interpretation clause;—
"Master,"
"Vessel,"
"Passengers."

32. This Act shall commence and take effect on the first day of January, 1870, and on and after the said day the following Acts and parts of Acts shall be repealed, that is to say:— Commencement of Act.

So much of Chapter forty of the Consolidated Statutes of the late Province of Canada "*respecting Emigrants and Quarantine*," as has not been already repealed; Acts repealed, Con. Stat. Can. c. 40.

The Act of the Legislature of the said late Province of Canada, passed in the twenty-fifth year of Her Majesty's Reign, Chapter eight "*to amend the Act respecting Emigrants and Quarantine*;" Can. 25 Viet c. 8.

The Act of the Legislature of the said late Province of Canada, passed in the Session thereof held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, Chapter sixteen, "*to amend the Act respecting Emigrants and Quarantine*;" Can. 27-28 Viet. c. 16.

The Act of the Legislature of the Province of New Brunswick, passed in the twenty-fourth year of Her Majesty's Reign, Chapter four, "*relating to Passengers arriving within this Province*;" N. B. 24 Viet. c. 4.

Except only as regards offences committed or liabilities incurred under any of the said Acts before the said day, with respect to which, and to all proceedings relating to which, the said Acts shall remain in force; and every enactment or provision Exceptions as to things heretofore done, &c.

in any other Act or law in force in any part of Canada before the coming into force of this Act, inconsistent with this Act, or making any provision for any matter provided for by this Act other than such as is hereby made, shall also be repealed on and after the said day.

Short title.

33. When citing this Act it shall be sufficient to call it "The Immigration Act, 1869."

SCHEDULE "A."

By 35 V. c. 28, sec. 14, page 622 post, a new Schedule (A) was substituted for the Schedule originally attached to this Act.

35 VICT. CAP. 27.

An Act relating to Quarantine.

[Assented to 14th June, 1872.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation.

"Master."

"Vessel,"

"Passengers."

1. In this Act, unless there be something in the context inconsistent with such interpretation, the word "master" shall apply to any person in command of a vessel; the word "vessel" shall include all ships, vessels or craft of any kind carrying passengers; the word "passengers" shall apply to all passengers as well as to immigrants usually and commonly known and understood as such, but not to troops or military pensioners and their families, who are carried in transports or at the expense of the Imperial Government; the words "Quarantine Station" shall apply to Grosse Isle, Lawlor's and Partridge Islands, or other place at which quarantine is directed to be performed.

"Quarantine station."

Governor in Council may

2. The Governor in Council may from time to time make such Regulations as he thinks proper, for enforcing compliance

with all the requirements of this Act, and concerning the entry or departure of vessels at the different ports or places in Canada; and concerning the landing of passengers or cargoes from such vessels, or the receiving of passengers or cargoes on board of the same, as may be thought best calculated to preserve the public health; and for ensuring the due performance of quarantine by and in respect of vessels, passengers, goods or things arriving at or in the neighbourhood of any port or place within Canada, to which he thinks it right for the preservation of the public health that such regulations should apply; and for the thorough cleansing and disinfecting of such vessels, passengers, goods or things, or concerning the arrival at or departure from any place in Canada of any persons, goods or things conveyed by land; and for ensuring the due performance of quarantine by and in respect of such persons, goods and things at or in the neighbourhood of any place in Canada to which he thinks it right for the preservation of the public health that such Regulations should apply; and for the thorough cleansing and disinfecting of such persons, goods and things, so as to prevent, as far as possible, the introduction or dissemination of disease into or in Canada; and may appoint or remove such officers as he may deem necessary for so doing, and assign to them respectively such powers as he may think requisite for carrying out the provisions of such Regulations, and may from time to time revoke or amend the same or any of them, and may make others in their stead, and impose penalties, forfeitures and punishments for the breach thereof; and such Regulations shall be notified by proclamation published in the *Canada Gazette* at least twice, and the production of the copies of the *Gazette* containing any such proclamation shall be evidence of the making, date and contents of such Regulations.

make Quarantine Regulations.

Publication and proof of Regulations.

3. Such Regulations shall have the force of law, during the time they respectively remain unrevoked, unless they be expressly limited to be in force only during a certain time or at certain times or seasons, in which case they shall have the force of law during the time and at the times and seasons during or at which they have been limited to be in force; and any person disobeying any such Regulations shall be held guilty of and may be prosecuted for a misdemeanour, punishable by fine or imprisonment, or both, as the Court may direct, or otherwise such person may be sued for the penalties contained in such Regulations.

Quarantine Regulations to have the force of law.

Punishment of persons disobeying them

4. By such Regulations, the Governor in Council may require the master of every vessel coming up the River St. Lawrence from below the Quarantine Station at Grosse Isle, or arriving by sea at or in the neighbourhood of any port or place in Canada (except only such vessels as are therein designated and referred to as excepted), to bring his vessel to anchor, at the anchorage at the proper Quarantine Station desig-

Vessels from sea, &c., may be required to perform quarantine.

Obligations of
masters of
vessels coming
to Quarantine
Station.

Inspection of
goods, and the
cleansing
thereof.

Powers of
officers at
Quarantine
Station, under
the Regula-
tions.

Penalties for
contravention
of Regula-
tions, and
power to com-
pel obedience.

nated in the Regulations, and report such vessel in writing to the officer at such station designated for that purpose in such Regulations, with all the particulars relative to the same and to the voyage, passengers and cargo thereof, required by such Regulations, or by any officer duly authorized under them to require the same, and to allow the proper officer to visit and inspect such vessel and every part thereof and the passengers and crew and the cargo and other articles on board the same, and to answer truly all questions asked of him touching the same; and to send on shore at such station and at the places there pointed out by the officer thereunto authorized by such Regulations, any or all of the passengers, crew, cargo or other articles on board such vessel, as such officer thinks necessary for preventing the introduction of contagious or infectious disease, and to allow such passengers, crew, cargo or other articles, and also the vessel itself, to remain so long at such station and at such places thereat respectively, and to be so treated, cleansed and purified, as such officer shall think necessary for the purpose aforesaid; and by such Regulations the Governor in Council may require the owners or persons in charge of goods or things conveyed by land to any place in Canada, to allow the proper officer appointed under such Regulations to inspect and examine the same, and to answer truly all questions asked of them by such officer concerning the same, and to allow such goods or things to remain so long in the custody of such officer, and to be so treated, cleansed and purified, as such officer shall think necessary for the purpose of this Act; and by such Regulations the Governor in Council may require all persons arriving by land at any place in Canada, to allow themselves to be inspected and examined by the proper officer appointed under such Regulations, and to answer truly all questions asked of them by such officer, and to remain so long at such place and be so treated, cleansed and purified as such officer shall think necessary for the purposes of this Act.

5. And by such Regulations the Governor in Council may assign to the several officers and persons to be employed at any such Quarantine Station the powers and duties necessary for carrying the said Regulations and this Act fully into effect, and may declare that any such officer or person shall, by virtue of his office or employment, be a Justice of the Peace or a Constable or Peace Officer for such Quarantine Station, and for the space around the same described in such Regulations; and such officer shall accordingly be such Justice of the Peace or Peace Officer, whether he be otherwise qualified or not, for the purpose of carrying out the criminal laws and other laws of the Dominion; and by such Regulations the Governor in Council may impose penalties, not exceeding four hundred dollars in any case, on persons contravening the same, and may provide that the offender shall be imprisoned until such penalty be paid, and may direct that no vessel shall be entered or cleared at any Custom House in Canada until all the requirements of

such Regulations are fully complied with, and may direct that any person, vessel or thing, who or which has passed or departed or been removed from any Quarantine Station, before all the requirements of such Regulations are fully complied with in respect of such person, vessel or thing, or without the written permission of the officer empowered to authorize such passing or departure, may be compelled to return or be carried back to such Station, and by force, if necessary.

6. The Governor in Council may appoint one or more medical officers at each of the principal harbours of the Dominion to board, visit and inspect vessels arriving in such harbour from sea, and to perform such other duties and have such power as the Governor in Council may by any regulations direct.

Medical officers at principal harbours.

7. Every penalty or forfeiture, imposed or declared under the authority of this Act, shall be a special lien upon the vessel by reason whereof it has become payable, and the master whereof has become liable in such penalty, and may be enforced and collected by the seizure and sale of the vessel, her tackle, apparel and furniture, under the warrant or process of the Justices or Court before whom it has been sued for and recovered, and shall be preferred to all other liens or hypothecations except mariners' wages.

Penalties, &c., to be special liens upon vessels.

8. When any vessel not originally bound for any port in the Dominion shall arrive at the port of Halifax, or the port of St. John, New Brunswick, or any other seaport of the Dominion, with contagious or infectious disease on board, and be allowed to remain in quarantine at or near such port, the master of such vessel shall pay to the Collector of the Customs at the port the sum of two dollars, head money, for each person on board the said vessel at the time of her arrival. The said sum shall be a lien on the vessel, and shall be paid before she shall be allowed to leave the port.

As to vessels arriving at ports to which they were not originally bound, with infectious disease on board.

9. A vessel shall have the right, before breaking bulk, of putting to sea, in preference to being quarantined: in the exercise of this right, if the vessel has not arrived at her port of destination, the bill of health shall be returned; the Inspecting Physician, however, shall mention upon the said bill, the length and circumstances of the detention, and the condition of the vessel upon re-putting to sea; but before the exercise of this right, the Inspecting Physician must satisfy himself that the sick of such vessel will be taken care of for the remainder of the voyage, and take care of such sick as prefer to remain.

Vessels may on certain conditions put to sea instead of being quarantined.

10. All sums and pecuniary penalties levied under the authority of this Act shall be paid into the hands of the Receiver General, to form part of the Consolidated Revenue Fund of Canada.

Sums and penalties to form part of Con. Rev. Fund.

31 V. c. 63,
repealed.

11. Chapter sixty-three of the Statutes of Canada passed in the thirty-first year of Her Majesty's Reign is hereby repealed, but no Act or enactment thereby repealed shall be revived, and all Acts and enactments inconsistent with this Act are hereby repealed.

Regulations
under 31 V. c.
63, to remain
in force.

12. All Regulations made by the Governor in Council, under the first section of the Act, thirty-first Victoria, Chapter sixty-three, hereby repealed, having the force of law at the date of the commencement of this Act, shall continue to have the force of law until revoked by Regulations made under the second section of this Act; and any person disobeying any such unrevoked Regulation shall be held guilty of and may be prosecuted for a misdemeanour, punishable by fine or imprisonment, or both as the Court may direct; or otherwise such person may be sued for the penalties contained in such Regulation.

Penalty for
disobedience.

Provision
when Regula-
tions are
revoked.

13. When any Regulation made under the said first section of the said Act or under this Act is revoked, and other provisions substituted, all officers and persons acting under the revoked Regulation shall continue to act as if appointed under the revoking Regulation, until others are appointed in their stead; and all proceedings taken under the revoked Regulation shall be taken up and continued under the revoking Regulation when not inconsistent therewith; and all penalties and forfeitures may be recovered and all proceedings had in relation to matters which have happened before the revocation, in the same manner as if the revoked Regulation were still in force.

Penalties.

Revocation
not to affect
things done,

14. The revocation of any such Regulation at any time shall not affect any act done, or any right or right of action existing, accruing, accrued or established, or any proceedings commenced in a civil cause, before the time when such revocation shall take effect.

Nor penalties
incurred or
proceedings
pending.

15. No offence committed, and no penalty or forfeiture incurred, and no proceeding pending, under any such Regulation at any time revoked, shall be affected by the revocation, except that where any penalty, forfeiture or punishment shall have been mitigated by any of the provisions of the revoking Regulation, such provisions shall be extended and applied to any judgment to be pronounced after such revocation.

35 VICT. CAP. 28.

An Act to amend the Immigration Act of 1869.

[Assented to 14th June, 1872.]

Preamble.

32-33 V. c. 10.

IN amendment of "*The Immigration Act, 1869*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Whenever a vessel carrying emigrants, not cleared under the sanction of the Imperial Commissioners of Emigration, arrives in her port of destination in Canada, not carrying a surgeon, and on board of which proper measures for the preservation of the health of the passengers and crew during the voyage have not been observed, the medical officer shall report the fact to the Collector of Customs, and a duty of two dollars for each passenger or immigrant above the age of one year shall be paid by the master of the vessel to the Collector of Customs at the port, and the vessel shall not be admitted to entry until such duty be paid; and the duty shall be applied in manner provided by section two of the said Act, in respect of the duty imposed by the said section two, which duty shall be and is hereby repealed as respects immigrants by vessels arriving in Canada on or after the tenth day of July, 1872, and the duty of two dollars imposed by the present section in the case here-mentioned shall thereafter be the only duty payable in respect of immigrants.

Duty imposed on master of vessel not carrying a surgeon, and on board which proper measures are not taken for preserving health.

Former duty repealed.

By 38 V. c. 15, s. 2, page 624 post, an additional duty is imposed.

2. In sections eighteen and nineteen of the said Act, the hour of six o'clock in the afternoon is hereby substituted for the hour of four o'clock in the afternoon, and the said sections shall be construed and have effect accordingly.

Secs. 18 and 19 of 32-33 V. c. 10, amended.

3. The words—"The Quarantine and Health Act of 1868," in section eleven of the said Act, are hereby repealed, and the words "Any quarantine Act or regulation then in force" shall be substituted for them as part of the said section.

Sec. 11 amended.

4. If any contract be made or any bond or note given by an emigrant before leaving Europe for Canada, to repay in Canada any sum of money advanced to him or her for or towards defraying his passage money, or towards defraying any other expense attending his emigration, such sum shall be recoverable from the immigrant in Canada, according to the terms of such instrument, by suit in any court in Canada having jurisdiction in civil cases to the amount demanded—and if any emigrant in consideration of money advanced as aforesaid engages and binds himself or herself to enter the service of any employer in Canada on his or her arrival there, in any capacity, and to work for and serve such employer in such capacity during any certain time, not exceeding six months, and at any named rate of wages, and afterwards refuses or neglects on his arrival in Canada to perform such engagement, such refusal or neglect on the part of the immigrant to perform such obligations undertaken by him or her in such instrument, shall be an offence cognizable before any one Justice of the Peace under the "*Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders*," and punishable by fine not exceeding twenty dollars and costs, and by imprisonment until such fine and costs be paid.

Provision for recovery of money on bonds, etc., of immigrants given before leaving for Canada.

And enforcing undertaking to work.

32-33 V. c. 31.

Immigrant runners, etc., not to board vessels before passengers are landed.

Penalty.

Immigration agent to visit vessel before entry.

Immigrant vessel to hoist signal on arrival.

5. No licensed Immigrant runner or agent or person acting on behalf of any steamboat company, railway company, or forwarding company, or hotel, or boarding-house keeper, or his agent, shall go on board any vessel bringing immigrants into any port, or book or solicit any immigrant passenger by such vessel, before the immigrant passengers are landed from such vessel, unless authorised by the Immigration Agent, under a penalty of twenty-five dollars for any contravention of this section; and no such vessel shall be admitted to entry until the Immigration Agent at the port has visited her, and has notified the Collector of Customs that he has done so; and any such vessel arriving in port shall hoist such signal as may be determined on by the Immigration Agent at the port, who shall communicate it through the superintendent or other proper officer to the Pilots for the port, and it shall be the duty of the Pilot of the vessel to see that such signal is hoisted and kept up during daylight, until the Immigration Agent has visited the vessel.

How inquiry may be made into complaints against railway companies, &c.

6. If any complaint be made to the Minister of Agriculture against any railway company, or other incorporated company, for any offence or contravention of this Act or of the Imperial Passenger Acts of 1855 and 1863, or of any other Act or Law in any matter relating to immigrants or to immigration, the said Minister may cause such inquiry as he may think proper to be made into the facts of the case, or may bring the matter before the Governor in Council to the end that such inquiry may be made under the "*Act respecting inquiries concerning Public Matters*;" and if upon such inquiry it appears to the satisfaction of the said Minister, or of the Governor in Council, as the case may be, that the company has been guilty of such contravention, the Minister or the Governor may call upon the company to make such compensation to the party or parties aggrieved, or to do such other thing as shall be just and reasonable, or may adopt measures for causing such proceedings to be instituted against the company as the case may require.

Selling passage tickets to immigrants at too high a rate, &c.

Penalty.

7. Any person licensed under section twenty-two of the Act hereby amended, or any person in his employ, selling to any immigrant a ticket or order for the passage of such immigrant, or the conveyance of his luggage, at a higher rate than that for which it could be purchased directly from the Company undertaking such conveyance, or any person purchasing any such ticket from an immigrant for less than its value, or giving him in exchange for it one of less value, shall thereby incur a penalty of twenty dollars for each such offence.

As to property of immigrant parents dying on the voyage, or at Grosse Isle, &c.

8. If both the immigrant parents, or the last surviving immigrant parent of any child, or children, brought with them in any vessel bound to Canada, should die on the voyage or at Grosse Isle, Lawlor's Island, Partridge Island, or elsewhere in Canada, while yet under the care of any Immigration Agent or

Agents, the Minister of Agriculture, or such officer as he may depute for the purpose, may cause the effects of such parents or parent to be disposed of to the best advantage in his power, or in his discretion to be delivered over to any Institution or person assuming the care and charge of such child or children.

9. The Medical Superintendent at Grosse Isle may, from time to time, with the consent and approval of the Minister of Agriculture, make such regulations as he may deem necessary for enforcing order and ensuring the health and comfort of immigrants there; and such regulations being published in the *Canada Gazette*, shall be in force, and any contravention thereof shall be deemed a contravention of this Act, and shall be punishable by such penalty as may be assigned by such regulations in each case.

Medical Superintendent may make regulations.

Publication.

10. The Governor in Council may by Proclamation, whenever he deems it necessary, prohibit the landing in Canada of any criminal, or other vicious class of immigrants to be designated in such Proclamation, except upon such conditions for ensuring their re-transportation to the port in Europe whence they came with the least possible delay, as the Governor in Council may prescribe; and such conditions may, if the Governor in Council deems it necessary, include the immediate return, or the return with the least possible delay of the vessel and such immigrants to the said port, such prohibited immigrants remaining on board until such return of the vessel.

Landing of vicious immigrants may be prevented by Order in Council.

11. Every master or other officer, seaman, or other person employed on board of any vessel, who, while such vessel is in any waters within the jurisdiction of the Parliament of Canada, under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger, shall be guilty of a misdemeanour, and upon conviction, shall be punished by imprisonment for a term not exceeding one year, or by a fine not exceeding four hundred dollars; provided that the subsequent intermarriage of the parties seducing and seduced, may be pleaded in bar of conviction.

Provisions against seduction of female immigrants.

Proviso.

12. Neither the officers, seamen, or other persons on board of any ship or vessel bringing immigrant passengers to Canada, or any of them, shall while such vessel is in such Canadian waters as aforesaid, entice or admit any female immigrant passenger into his apartment, or visit or frequent any part of such ship or vessel assigned to female immigrant passengers, except by the direction or permission of the master or commander of such vessel, first made or given for such purpose; and every officer, seaman or other person employed on board of such ship or vessel, who violates the provisions of this section, shall incur a penalty equal in amount to his wages for the voyage during which the said offence has been committed. Any master or commander who while such vessel is in such waters as afore-

Provision for prevention of intercourse between the officers and seamen and female immigrants.

Penalty.

And on Master permitting

such inter-
course.

said, directs or permits any officer or seaman or other person on board of such ship or vessel, to visit or frequent any part of such vessel assigned to immigrant passengers, except for the purpose of doing or performing some necessary act or duty as an officer, seaman or person employed on board of such vessel, shall, on conviction thereof, be punished by a fine of twenty-five dollars for each occasion on which he so directs or permits the provision of this section to be violated by any officer, seaman or other person employed on board of such vessel ; provided always that the provisions of this section shall not apply to cabin passengers, or to any part of the vessel assigned to their use.

Provisions of
s. 12 to be
posted up in
the vessel.

13. It shall be the duty of the master or commander of every ship or vessel bringing immigrant passengers to Canada, while the vessel is in such waters as aforesaid, to post a written or printed notice in the English, French, and German languages, containing the provisions of the next preceding section of this Act, in a conspicuous place on the fore-castle and in the several parts of the said vessel assigned to immigrant passengers, and to keep the same so posted during the rest of the voyage, and upon neglect so to do he shall, on conviction thereof, be punished by a fine not exceeding fifty dollars.

New form of
passenger
list.

14. The passenger list required by section five of the Act hereby amended, to be delivered to the Collector of Customs at the Port of Landing, shall be in the form of Schedule A to this Act, which form is hereby substituted for Schedule A to the said Act, and a certified copy or duplicate of such passenger list shall be delivered to the Government Immigration Agent at the Port of Landing, nor shall any passenger be permitted to leave the vessel until such duplicate or certified copy has been delivered to such Immigration Agent, under the penalty provided by the said section for permitting passengers to land before the passenger list therein mentioned is delivered to the Collector of Customs.

Penalties how
enforced and
applied.

15. All penalties imposed by this Act, or any regulations to be made under it, shall be enforced and applied in like manner as penalties imposed by the Act hereby amended or the regulations made under it, are thereby directed to be enforced and applied ; and this Act shall be construed as one Act with the Act hereby amended, and as regards all things to be hereafter done, as if the enactments herein contained were part of the said amended Act.

Interpreta-
tion clause.

16. For the purposes of this Act, and of the Act hereby amended, any person shall be deemed to be a Dominion Immigration Agent or Sub-agent, or a Provincial Immigration Agent, whom the Minister of Agriculture shall recognise as such, with reference to any act done or to be done, under either Act, without any formal appointment being necessary ; and the expression "Immigration Agent" includes any such Sub-agent, in Europe or in Canada.

17. In citing this Act and the Act amended by it, it shall be sufficient to call them “*The Immigration Acts of 1869 and 1872.*”

SCHEDULE A.

NAMES AND DESCRIPTION OF PASSENGERS.

Port of Embarka- tion.	Names of Passengers.	Adults.		Children between 1 and 14.		Number of Infants not over one year.	Profession, occupation, or calling of Passengers.	Nation or Country of Birth.	Birth at Sea.	Births.	Places in the Dominion of Canada or United States to which Passengers are bound.
		AGE.		AGE.							
		Female.	Male.	Male.	Female.						

PARTICULARS RELATIVE TO THE VESSEL.

Vessel's Name.	Master's Name.	Tonnage.	From what Port or Place.	Total number of superficial feet in the several compartments set apart for Passengers other than Cabin Passengers.	Total number of Adult Passengers, exclusive of Master, Crew, and Cabin Passengers, which the vessel can legally carry.	Where bound.

SUMMARY.

	Number of Souls.	Number of Adults to which they are equal under the Immigration Act, 1869.
Adults		
Children between 1 and 14		
Infants not over 1		
Total.....		

I hereby certify that the above is a correct description of the (*Description of the Vessel, as Ship, Brig, &c.*) (*Name of Vessel*), and a correct list of all the Passengers on board the same, at the time of her departure from (*Place from whence she came*), and that all the particulars therein mentioned are true.

Date,

18 .

Signature of Master.

38 VICT. CAP. 15.

An Act to amend "The Immigration Act of 1872."

[Assented to 8th April, 1875.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows.—

Interpretation.

1. In this Act the word "Ship" includes every description of vessel used in navigation, not propelled by oars.

Additional duty to that imposed by 35 V., c. 23.

2. There shall be raised, levied and collected a duty payable in the manner hereinafter prescribed by the master of every ship arriving in any port in Canada from any port in Europe with passengers or emigrants therefrom at any time when this Act is in force as hereinafter provided, in addition to any duty payable by the master of such ship, under the provisions of the first section of "*The Immigration Act of 1872*;" And such duty shall be such sum not exceeding two dollars for every passenger or immigrant above the age of one year to be landed in Canada, as may have been specified in the proclamation giving effect to this Act, in force for the time being in the Province in which such port is situate.

Maximum amount of duty.

To be paid on entry, and what the entry must shew.

3. The said duty shall be paid by the master of the ship, or by some person on his behalf, to the Collector of Customs at the port in Canada at which such vessel is first entered, and at the time of making such first entry, which shall contain on the face of it the number of passengers actually embarked on board the ship, and the number to be landed in Canada; and no such entry made at any such time, shall be deemed validly made, or have any legal effect whatever, unless such numbers are correctly stated and such duty has been fully paid.

Proclamation to fix amount of duty, and when and where this Act shall or shall not be in force.

4. This Act shall take effect upon, from and after the day, and in the Province or Provinces, and for the amount of duty (within the limit aforesaid) specified by Proclamation in that behalf issued under an Order of the Governor General in Council, and not before; and the Governor General may, from time to time, by Proclamation issued under an Order

in Council suspend the operation of this Act in any one or more or in all of the Provinces forming this Dominion ; and from and after the period specified in any such suspending proclamation, this Act shall be suspended in such Province or Provinces ; but nothing herein contained shall prevent or be construed to prevent the Governor General from again declaring by Proclamation issued under an Order in Council, that this Act shall again have effect in such Province or Provinces, or in any of such Provinces, and for the amount of duty (within the limit aforesaid) in such last mentioned proclamation specified ; and upon such proclamation this Act shall be revived and have effect again accordingly ; and so on, from time to time, *toties quoties* :—And every such proclamation shall be published in the *Canada Gazette*.

And so from time to time.

Proviso.

Publication.

11. SECRETARY OF STATE.

31 VICT. CAP. 42.

This Act which provides for the organization of the Department of the Secretary of State, and which also relates mainly to the management of Indian and Ordnance Lands, will be found ante, page 146. The following Act, which amends that Act, is here printed as relating solely to the organization of the Department.

38 VICT. CAP. 6.

An Act to amend the Act providing for the Organization of the Department of the Secretary of State of Canada.

[Assented to 8th April, 1875.]

HER MAJESTY, by and with the advice of the Senate and House of Commons of Canada, enacts as follows :—

Preamble.

1. The following words are hereby added to, and shall form part of the fourth section of the said Act passed in the

Addition made to sec. 4 of 31 V. c. 42.

thirty-first year of Her Majesty's reign, chapter forty-two, that is to say :—

Signature of
Deputy Registrar-General of
Canada to
avail in cer-
tain cases,

“ And the Deputy Registrar-General of Canada, from time
“ to time appointed under the second section of this Act, may
“ sign and certify the registration of all instruments and do-
“ cuments required to be registered, and all such copies of
“ the same, or of any records in the custody of the Registrar-
“ General as may be required to be certified or authenti-
“ cated as being copies of any instruments or documents as
“ aforesaid.”

31 VICT. CAP. 35.

An Act to regulate and restrict the Contingent
Charges of the Departments of the Public Service,
and to establish a Stationery Office.

[Assented to 22nd May, 1868.]

Preamble.

HER MAJESTY, by and with the advice and consent of
the Senate and House of Commons of Canada, enacts as
follows :

CONTINGENCIES.

What shall be
contingencies.

1. The Contingencies of each Department of the Civil
Service shall mean and include only :

1. Subscriptions to and advertising in newspapers ;
2. The purchase of books of reference, maps, &c. ;
3. Telegraphing ;
4. Postages, freight and express charges ;
5. Wages of charwomen, and other expenses of cleaning
offices ;
6. Travelling expenses, including cab hire ;
7. Extra clerks, to the extent only sanctioned by the Civil
Service Act ;
8. Petty expenses, not exceeding in any Department a sum
to be apportioned by Order in Council.

2. The Department of Public Works is hereby charged with the heating, maintenance and keeping in repair of the Government Buildings at the seat of Government, and with any alterations, from time to time, requisite therein, and with supplying furniture or fittings or repairs to the same; and no charge in respect thereof shall be made against or paid out of the vote for contingencies, but an Estimate shall be annually laid before Parliament of sums required for such purposes, respectively, and any expenditure therefor shall be defrayed out of such sum as may be specially appropriated therefor.

Heating, repair, and furnishing Government buildings to be under charge of Public Works.

How paid for.

3. So often as any Contingency is required by any Department, whether for an article to be furnished or service to be performed, the Deputy Head of the Department shall apply therefor by requisition, in writing, to the person by whom the same is to be furnished or performed; and such requisition shall, in cases where it can be so made, be antecedent to the delivery of the article or performance of the service.

Deputy Heads to give orders for contingencies.

4. Every account rendered to a Deputy Head for certificate, shall be accompanied by the original requisition in respect of which such account accrued, and, when certified by him, shall be forwarded to an officer of the Finance Department, to be called the Accountant of Contingencies, for payment; and, except as hereinafter mentioned, shall then be paid by him.

And certificates for payment. To whom to be sent.

5. Every such certificate shall expressly state that each item contained in the account has been incurred by the authority and upon the order of either the Head or Deputy Head of the Department, and that the articles or services charged for have been received or performed, and that the prices charged are, in his opinion, severally fair and just, and that the expenditure incurred is necessary for the public service; but the Accountant of Contingencies shall nevertheless investigate the account, and ascertain the correct price before paying the same; and the Board of Audit shall, from time to time, prescribe the mode of investigating accounts, and the standard by which the correct price shall be ascertained by the Accountant of Contingencies before such payment.

What the certificate shall state expressly.

Duty of Accountant of Contingencies, and of Board of Audit.

6. In case it shall appear to the Accountant of Contingencies that any such account is for a purpose not included under the above definition of Contingencies, or that it is in excess of the amount for which authority has been given, or that the amount, or any part thereof, has been previously paid, or that there is any other error therein, he shall withhold payment, and submit the account to the Auditor; and if the Auditor, after conference with the Deputy Head, signing the requisition, shall be of opinion that there is any irregularity in the same, he shall submit it to the Board of Audit before payment.

Reference to the Auditor and Board of Audit in cases of doubt.

7. The Deputy Head of each Department shall submit to the Head thereof, monthly, an account of the expenditure for con-

Monthly account by Deputy to Head.

tingencies during the month, with the details of such account.

Monthly account to Board of Audit of sums paid in advance.

8. The Accountant of Contingencies shall submit, monthly, through the Auditor, to the Board of Audit, at its monthly meeting, a statement of all sums which have been paid in advance and to be accounted for, and which remained unaccounted for at the end of the last preceding month.

Account to the Auditor.

9. The Accountant of Contingencies shall render to the Auditor, monthly, a statement, in detail, accompanied by vouchers, of all sums paid by him during the month, and of all moneys received, with a Bank certificate of the balance at his credit at the end of the month.

Estimates for contingencies and application of sums voted.

10. The Estimates for Contingencies of each Department shall be prepared and submitted to Parliament separately, but may be voted in one sum, and in that case, and so soon as conveniently may be after the same have been voted by Parliament, the Governor in Council shall assign a certain sum for defraying the Contingencies of each Department, reserving a certain amount for general expenses, not specially applicable to any individual Department, to be expended upon requisition and certificate of the Chairman of the Civil Service Board, in such manner as is hereinbefore provided, in respect to the Contingencies of any Department.

As to certain expenses connected with Government Buildings.

11. All matters connected with the superintendence of the Government Buildings, other than the maintenance and repairs thereof, hereinbefore mentioned, shall be in charge of the Accountant of Contingencies, under the Civil Service Board, and such Board shall make regulations in respect thereof, subject to the approval of the Governor in Council.

STATIONERY.

Stationery Office, and management thereof.

12. There shall be a Stationery Office for the purposes hereinafter mentioned, and the same shall be attached to the Finance Department, and shall be placed under the superintendence of such Officer or Clerk of that Department as the Minister of Finance may direct; and the Governor in Council may, subject to the provisions of the Canada Civil Service Act, 1868, appoint any Clerk or Clerks for assistance in the said office as may be found expedient.

By 36 V. c. 4. sec. 13, page 546 ante, the charge of the Stationery Department is transferred to the Secretary of State of Canada.

Estimates of Stationery, Printing, &c., by Deputy Heads.

13. It shall be the duty of each Deputy Head of a Department to furnish to the Finance Department, when required, an estimate of the probable quantity, quality and variety of all articles commonly known as "Stationery," and of the probable

amount, in value, of Printing and Binding which may be required for the purposes of each such Department for the then ensuing Financial Year.

14. Such estimates shall be referred to the Civil Service Board, who shall thereupon report to the Governor in Council, the total probable amount, in quantities, qualities and value, required for the Stationery, Printing and Binding for the Departments of the Civil Service for such year, and a requisite sum therefor shall be placed in the Estimates as a separate item, under the head of Civil Government; and an apportionment in respect of each Department shall be made by the Governor in Council, which may be increased or varied from time to time, so that the whole sum voted by Parliament in any year, together with the value of the stock on hand, be not exceeded; the said Board shall further report to the Governor in Council, the mode or modes in which the said Board propose that the said articles or services shall be procured and performed, and the regulations under which tenders may be asked for for the same respectively, and as to the terms of acceptance thereof, and as to the mode of collection and disposal of the waste paper of the several Departments; and upon the approval by the Governor in Council of such Reports of the Civil Service Board, any necessary supplies of Stationery, to the extent of the appropriation made by Parliament, may be procured, and any necessary arrangements for Printing and Binding, and contracts for the same, respectively, may be entered into; and all Stationery so procured shall be placed in the custody of such Officer or Clerk as may be directed, as hereinbefore mentioned.

Total estimates to be submitted to Parliament, &c.

Apportionment to each Department.

Report to Governor in Council; and contracts for supplies or work.

Supplies of stationery, on Reports approved by Gov. in Council.

15. Such Officer or Clerk shall supply any articles of Stationery to, or cause to be performed for any Department of the Civil Service, such Printing or Binding, according to such regulations as may be approved by the Governor in Council as aforesaid, so often as such Officer or Clerk shall receive a Requisition therefor, signed by the Deputy Head of such Department, and he shall charge the quantity supplied, or the service so performed, and the value thereof, against such Department; and such Officer or Clerk shall furnish an account, monthly, of the same respectively, to each Deputy Head of a Department, accompanied by the several Requisitions in respect of the several articles or services mentioned in the said account, and such Deputy Head shall, if the same be found correct, certify to the correctness of such account, and return it to such Officer or Clerk.

Stationery Clerk to supply Stationery and cause work to be done; sending accounts monthly to Deputy Heads, who shall certify them if correct.

16. Such Officer or Clerk shall furnish a Statement, monthly, to the Auditor, with the accounts and vouchers therefor, of all Stationery purchased and of all articles supplied, or Printing and Binding performed for each Department during the preceding month, certified by the Deputy Head thereof as

And to render accounts monthly to the Auditor, who shall take stock from time to time.

correct, in the manner hereinbefore provided with respect to Contingencies; and the Auditor shall quarterly, or more frequently, at his discretion, cause the stock of Stationery in store to be checked, with the quantities purchased and supplied.

Accounts to be
laid before
Parliament.

17. An account shall be laid before Parliament each year, showing the value of the stock of Stationery on hand at the beginning of the year, the amount expended during the year for Stationery, Printing and Binding, the amounts charged against each Department, and the stock on hand at the end of the year, and also the amount expended under the several heads of service specified in the first section.

Act to apply to
Outside
Service.

18. This Act shall apply as well to the Outside Service of the several Departments as to the Departments of the Civil Service at the Seat of Government.

32-33 VICT. CAP. 7.

An Act respecting the Office of Queen's Printer and the Public Printing.

[Assented to 22nd June, 1869.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Queen's
Printer to be
appointed.

1. The Governor may, by Commission under the Great Seal of Canada, appoint a Queen's Printer for the Dominion of Canada, who shall hold his office during pleasure, and shall receive for his services a salary not exceeding two thousand dollars per annum, and so *pro rata* for any longer or shorter period, in lieu of all other fees or emoluments whatever.

Salary.

His duties, etc.

2. It shall be the duty of the Queen's Printer to print and publish, or cause to be printed and published, for the Government, under his superintendence, the Official Gazette of the Dominion, to be known as the "Canada Gazette," the Statutes of Canada, and all such official and departmental and other reports, forms, documents, and other papers, as he may be required to print and publish, or cause to be printed and published, by or under the authority of the Governor in Council, and he shall perform, all such other duties as shall be from time to time assigned to him by Order in Council: and whatever is printed under his superintendence, by authority of this Act, shall be held to be printed by him.

3. All Proclamations issued by the Governor or under the authority of the Governor in Council, and all official notices, advertisements and documents relating to the Dominion of Canada, or matters under the control of the Parliament thereof, and requiring publication, shall be published in the Canada Gazette, unless some other mode of publication thereof be required by law.

Certain documents to be printed in the Canada Gazette.

4. All copies of Proclamations and official and other notices advertisements and documents, printed in the Canada Gazette shall be *prima facie* evidence of the originals, and of the contents thereof.

Copies in the Gazette to be evidence.

5. The Governor in Council may from time to time prescribe the form, mode and conditions of publication of the Canada Gazette, and designate the public bodies, officers and persons to whom it shall be sent without charge, and regulate the price of subscription thereto, and the charges to be paid for the publication of notices, advertisements and documents, for parties other than the Government, and all sums payable for such last mentioned charges shall be paid in advance to the Queen's Printer, and by him accounted for, and paid over to the Receiver General, in such manner as the Governor in Council shall direct, and shall make part of the Consolidated Revenue Fund of Canada.

Powers of Governor in Council as to the Gazette.

Profits of Gazette.

6. The printing, binding, and other like work to be done under the superintendence of the Queen's Printer, shall, except as hereinafter mentioned, be done and furnished under contracts to be entered into under the authority of the Governor in Council, in such form and for such time as he shall appoint, after such public notice or advertisement for tenders as he may deem advisable, and the lowest tenders received from parties of whose skill, resources, and of the sufficiency of whose sureties for the due performance of the contract the Governor in Council shall be satisfied, shall be accepted.

Printing, &c., to be done by contract.

7. The Governor may, from time to time, by orders in Council, authorize, for reasons to be stated in such Orders, cause printing and binding for the public service to be done without tender; and such Orders in Council and the expenditure under them shall be laid before Parliament at its then next Session.

Exception in certain cases.

8. The expenses to be incurred under the provisions of this Act shall be paid out of such moneys as may be appropriated for the purpose by Parliament, and accounted for in like manner as other moneys expended for the public service.

Expenses under this Act.

9. This Act shall come into force on and from the first day of October, 1869.

Commencement of Act.

33 VICT. CAP. 6.

An Act to amend the Act respecting the Office of Queen's Printer.

[Assented to 12th May, 1870.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

The Queen's Printer to be an Officer of the Department of the Secretary of State of Canada.

1. The Queen's Printer shall be an Officer of the Department of the Secretary of State of Canada, and shall have and perform such duties as now are or may be hereafter assigned to him by law, or by order of the Governor in Council, or by the Secretary of State, under the supervision and direction of the Secretary of State.

See also 36 V. c. 6. s. 4, page 545 ante.

How this Act shall be construed.

2. This Act shall be construed as one Act with the Act thirty-second and thirty-third Victoria, chapter seven.

12. *LIBRARY OF PARLIAMENT.*

34 VICT. CAP. 21.

An Act in relation to the Library of Parliament.

[Assented to 14th April, 1871.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Library, &c., vested in Her Majesty.

1. All books, paintings, maps and other effects, at the time of the passing of this Act in the joint possession of the Senate and House of Commons of Canada, or which shall hereafter be added to the existing collection, shall vest in the Queen's Majesty for the use of the two Houses of Parliament, and shall be kept in a suitable portion of the Parliament Buildings to be appropriated for that purpose.

Direction and control thereof in whom to be.

2. The direction and control of the Library of Parliament, and of the officers and servants connected therewith, shall be vested in the Speaker of the Senate and the Speaker of the

House of Commons for the time being, assisted during each session by a joint committee to be appointed by the two Houses.

3. The Speakers of the two Houses of Parliament, assisted by the joint committee, shall have power from time to time to make such orders and regulations for the government of the Library, and for the proper expenditure of moneys to be voted by Parliament for the purchase of books, maps, or other articles to be deposited therein, as to them shall seem meet; subject to the approval of the two Houses of Parliament.

Power to make orders, &c.

4. The officers and servants of the Library of Parliament shall consist of a librarian, an assistant librarian, two clerks and two messengers, who shall be appointed by the Crown, and who shall hold office during pleasure, and who shall respectively be paid the salaries mentioned in Schedule "A" to this Act annexed, and no additions shall be made to the number of such officers or servants, nor changes made in the salaries by this Act attached to their respective positions, save upon the resolutions of both Houses of Parliament: Provided always, that nothing in this Act or in the Schedule annexed thereto shall operate to diminish the salary of any officer or servant now employed in the Library.

Officers, clerks and messengers, and their salaries.

Proviso: No salary diminished by this Act.

5. The librarian, assistant librarian, and other officers and servants of the Library of Parliament, shall be responsible for the faithful discharge of their official duties, as the same may be defined by regulations to be agreed upon, as aforesaid, by the Speakers of the two Houses, and concurred in by the said joint committee on the Library.

Responsibility of Officers, &c.

6. The salaries of the officers and servants of the Library of Parliament, and any casual expenses connected therewith, shall be paid out of funds to be provided by Parliament for that purpose.

Salaries, &c., how payable.

7. The supply of stationery required for the use of the Library shall be furnished by the Stationery Office of the Government, and charged against the Houses of Parliament.

Stationery, how supplied

8. This Act shall commence and take effect upon and after the 1st July, 1871.

Commencement of Act.

SCHEDULE A.

Librarian.....	\$2,500
Assistant Librarian.....	1,800
First Library clerk (under five years' service)	800
do do (over five years' service) ..	1,200
Second Library clerk.....	800
Messengers (under five years' service).....	400
do (over five years' service).....	500

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For use in
the Library
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